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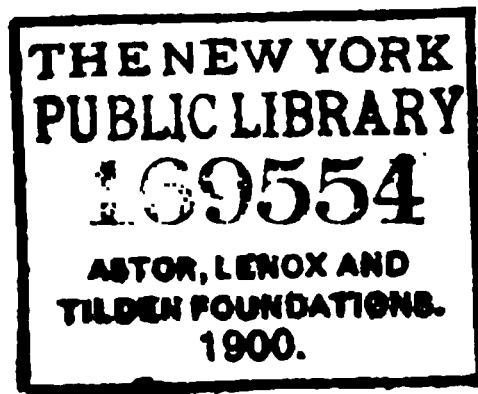
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## BIOGRAPHICAL SKETCH.

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HENRY CLAY was born in Hanover county, Virginia, on the 12th of April, 1777. His father, a respectable clergyman, died whilst his son Henry was yet quite young. At an early age, Henry received a good common school education, and was placed in the office of Mr. Tinsley, Clerk of the High Court of Chancery, at Richmond, Virginia. His great intellectual powers and gentlemanly deportment brought him within the notice and acquaintance of men of talents and worth; among others, Governor Brooke and Chancellor Wythe, by whose advice, he commenced the study of the law. At the age of 20 he was admitted to the bar, and soon after removed to Lexington, Kentucky, with a design to pursue the practice of his profession.

Mr. Clay soon took high rank as a lawyer, although the Lexington Bar was then, as now, widely distinguished for learning and forensic eloquence. He early exhibited an intimate acquaintance with the principles of law, and his connexion with Mr. Tinsley had made him familiar with the practical learning of his profession. He made it an invariable rule to make himself intimately acquainted with all the details of his case, before the time of trial. These advantages, added to his forcible and perspicuous arguments,—his masterly, earnest and skilful appeals to the passions, rendered his success rapid and permanent. His practice soon became extensive and lucrative.

Kentucky was one of the first States of the Union which raised the voice of opposition against the odious alien and sedition law of the Federal party of 1798 and '99. Mr. Clay's devotion to the great cause of human rights and liberty was early exhibited in his eloquent and fearless denunciations of these high-handed measures. His bold vindications of the freedom of the press, the great bulwark of American liberty, the grace of his



manner, and above all the power of his elocution, pointed him out as an ardent and successful defender of the democratic party and its principles. Democratic principles then predominated in Kentucky; and through all the mutations of party, this State has ever proven herself stedfast in her devotion to these principles, and has never faltered in her course. In 1803, when Mr. Clay was only 25 years of age, he was elected to represent Fayette county, in the more numerous branch of the State Legislature. On this extended theatre he met Kentucky's most eloquent and able men, and soon became a prominent member; in the course of a few sessions he was elected Speaker.

In 1806, he was elected by the Legislature of Kentucky to fill a vacancy in their delegation to the Senate of the United States; and thus was this young plebeian, afterwards known as the Great Commoner, at the early age of 29, without family and without patrimony, by the energy and faithful application of his talent and genius, and through his unwavering and eloquent support of popular rights, elevated to a seat in the most august assembly of modern times.

In 1809, Mr. Clay was again elected to fill a vacancy in the United States Senate. In 1811, at the expiration of his second term of service in the Senate, he became a candidate for a seat in the House of Representatives, and was, without difficulty, elected, and at the first session was chosen speaker of that body, a circumstance unparalleled in the history of legislation.

Mr. Clay was the champion of the Republican Democratic party, and supported the administration of Mr. Madison with all his influence and brilliant eloquence. He early discovered the necessity of a war with Great Britain, and boldly advocated that measure. He was foremost in devising and vindicating plans for the successful progress of the nation through this crisis, and was instrumental in procuring from Great Britain an honorable peace. While absent in Europe, on his mission to Ghent, he was again elected to Congress, and declining from Mr. Madison either a mission to Russia, or a place in the cabinet, he resumed his seat in the councils of his

country, the representative of a free and generous people.

The American people are acquainted with the subsequent political career of this great man; and to give in detail a history of the various measures which he has projected and advocated for advancing the interests and upholding the honor of his country, would be a task no less laborious than to write the history of the United States for the last twenty years.

The speeches of Mr. Clay, presented to the public in this work, contain lessons of political wisdom and experience,—the extended views of a statesman,—and embody a system of American principles, regulating our national and internal governments, which cannot be found collected in any other work; and which, if acted upon and carried out in all their wide provisions, would elevate this Union far above every nation upon earth, in all that is beneficial to man,—make its citizens independent of the rest of the world, and ensure to posterity the blessings of a wise, patriotic and truly American system of legislation.

It is considered unnecessary to say any thing by way of eulogy or praise of the speeches in this volume. He who will read them carefully, and honestly consider the principles they advance and support, will be the better able to pronounce a correct opinion with regard to their soundness, and to the merit of the work generally. But fearing lest the reader may pass too rapidly over a volume so truly fascinating, it may not be improper to request for some of the speeches a perusal of more than ordinary care. There are men of rare abilities, who are learned and eloquent in some of the walks of literature or science, or in some of the branches of political economy; but who, when taken out of their appropriate sphere, to which the thoughts and labor of their lives have been devoted, and thrust among a multiplicity of objects, and engaged in various pursuits, lose all their brilliancy and intellectual greatness. But Mr. Clay, like Chatham and Brougham, is not circumscribed by such narrow bounds; the grasp of his mind takes in the universe, and possessing the quality of untiring activity, is ever prepared to

attack or defend, to pull down or build up. He is in politics what Eumenius was in military affairs, ever foremost in defence of the right or in the attack of the wrong.

It is probably true, that no public character, of the present day, has paid such accurate attention to, or exhibited so deep research in the early history of our diplomatic correspondence, or so extensive an acquaintance with the treaties of foreign nations, with regard to the American colonies as has Mr. Clay. In his speech on the Perdido Line, he goes deeply into the investigation of our early history, and traces it minutely up to 1811, when the speech referred to was delivered. At that time, although Mr. Clay was comparatively young as a politician, he yet manifested all the comprehensive and far reaching sagacity of an experienced statesman, without any of the artifice of the intriguing diplomatist.

The speech on American industry is a masterly effort of intellectual greatness and sober patriotism. The speaker saw the ruinous tendency of the policy of our government on this subject, and with a mind fully imbued with a sense of the great responsibility of his station, he besought the American people and their representatives to change their misguided policy. The prosperity of the country, immediately consequent upon favorable legislation on this subject, fully attests the clearness of his conceptions and the correctness of his principles.

The speech on the Seminole war question, was delivered in 1817, and should be read by every American. In it may be observed the lofty aspirations of the patriot jealous of his country's honor, mingled with manly forbearance and generous delicacy toward the commanding officer in that war. Mr. Clay fearlessly arraigns the conduct of the General for a violation of orders in invading the Spanish territory, in disregarding the articles and rules of modern warfare, and in hanging prisoners of war. But he charitably ascribes what he conceived to be the misconduct of the General to a misapprehension of his duty, rather than to bad or corrupt motives. Much of the subsequent abuse of executive influence and arbitrary assumption of power over other depart-

ments of the government can be traced to the precedent given in the Seminole war. If Mr. Monroe had not used his executive and cabinet influence with the members of Congress, it is almost certain that a vote of censure on the conduct of General Jackson would have been passed by that body, and this dark spot effaced from our national escutcheon. The declarations of Mr. Clay, on that occasion, were prophetic, and have been fully realized in the subsequent history of the government: it was remarked by Mr. Clay, "They may bear down all opposition; they may even vote the general the public thanks; they may carry him triumphantly through the house. But if they do, in my humble judgment, it will be a triumph of the principle of insubordination—a triumph of the military over the civil authority—a triumph over the powers of this House—a triumph over the constitution of the land." Executive usurpation,—violations of law,—corruption,—proscription,—insubordination,—and profligacy of every species have fearfully increased since this fatal stab at our constitution.

The speeches on the emancipation of the South American provinces, and on the Greek revolution, strongly exhibit the universal benevolence of a true patriot. Ardent and eloquent in the cause of human rights and republican liberty, the speaker is ever foremost in originating and successful in carrying out those measures necessary to their protection and establishment. If defeated in the first attempt, he falters not,—he settles his principles in the broad foundations of truth, and his course is onward, and still onward, until his object is achieved.

There are some important measures which have been discussed in Congress, and in which Mr. Clay has taken a distinguished and leading part, upon which his speeches or views have never been published: such, for instance, as his speech in 1816, on the bank question, and his speech on the admission of Missouri into the Union. In a speech delivered in Kentucky, Mr. Clay remarked that his bank speech of 1816, had never been published for reasons unknown to him. No efforts have been spared to procure a copy of the speech on the Missouri

question; but it cannot be found. When that question threatened to dissolve the Union, when the angry waves of political contention were lashed into storm, all eyes were turned toward Henry Clay, as the only man in the nation who could calm the troubled ocean of human passion and interest. The great commoner, greatest in a great emergency, appeared; poured the oil of his eloquence and wisdom upon the waters, and all was quietness,—through his influence this vexed and dangerous question was safely and peaceably settled.

Mr. Clay's unwavering devotion to the interest of his country and great firmness were never more conspicuous than in his defence of our Navy. At the time he came forward as an advocate for an increase of the navy, the measure was unpopular; but believing that the safety of our common country demanded an increase of this arm of the national defence, he hesitated not, but patiently and fearlessly contended for its adoption.

Another public measure, and one of great importance, which has lately been consummated, is the distribution of the proceeds of the public lands among the several States. The success of this project is almost entirely owing to the efforts of Mr. Clay; his untiring zeal, unabated ardor and deep devotion to the interest of the people, knew no discouragements or disappointments; and although defeated by the President on one occasion, he still nobly continued to press this subject on the attention of the people and their representatives, until he finally accomplished his object at the late extra session. And now, while credit and confidence, national and individual, are most seriously impaired, the whole Union will feel the beneficial and salutary effects of this policy.

Mr. Clay has also been the consistent advocate of a wise and economical system of Internal Improvement by the general government; the abandonment of which has induced that wild and improvident spirit of State legislation, resulting in a total prostration of credit, and leaving many of the States bankrupt in character and fortune,—paralyzing their energies and breaking the bonds of political and social life. As a branch of the improvement policy advocated by Mr. Clay, we may mention the Cum-

berland Road, a work which is more important and beneficial to the western country and to western interest, than any other single measure of the national government; and so long as this road continues to be the great thoroughfare from east to west, and the highway of the Union, so long will it be the appropriate monument of his wise and earnest devotion to the good of the whole nation.

The reader's attention is directed to the speech on the Expunging resolutions. When Mr. Benton introduced into the American senate his expunging resolutions, and asked that body to obliterate and deface the journal of its own proceedings, which the constitution had declared should remain inviolate; when an American statesman sought the violation of that instrument, which had given him his political existence and continued his political life,—the great defender of constitutional liberty was indignant, and poured forth a torrent of patriotic eloquence and convincing argument, which none could answer, and which none could withstand, but those who had sworn to appease the wrath of the old Roman, by a desecration of the ark of our political freedom.

Mr. Clay's speech on the Sub-Treasury bill is another manifestation of his devotion to popular rights and a government of the people. After one act of executive usurpation had followed another until many of the nicely adjusted balances and checks of our government had become deranged, and Mr. Van Buren had presented to Congress his far-famed Sub-Treasury scheme, and which if securely established and made a part of our policy, would have placed in the hands of the Executive both the purse and the sword, and made our government a despotism; on this occasion the warning voice of Mr. Clay was heard in the councils of the nation, opposing this daring scheme of ambition, portraying with a masterly hand the odious and oppressive features of this measure, and exhibiting it to his countrymen in all its hideous deformity.

And thus it has been, that through the entire political career of Mr. Clay, he has ever proved himself the steadfast and efficient friend and champion of free government and human liberty throughout the world; the de-



fender of constitutional freedom and democratic principles; the advocate of an economical administration of the general government; an enemy to executive usurpation, tyranny and proscription; in favor of protecting our commerce, agriculture, domestic manufactures and home industry; the advocate of a national currency which shall equalize the exchanges and afford to all classes in our widely extended country, a sound and convenient circulating medium for all the diversified transactions and business of life; in favor of the gradual abolition of slavery in the United States; the avenger of the wrongs of the Indian; the faithful and zealous supporter and friend of the whole Union, and wherever or whenever disunion or anarchy have presented themselves, threatening to dissolve the government, Leonidas like, regardless of danger, and thinking only of the constitution and its safety, he throws himself into the breach, and has rescued repeatedly the noble fabric of our government from impending peril and dissolution; has extorted from the present generation a character, which posterity will proudly seal with their approval, that of the **GREAT PACIFICATOR.**

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# CLAY'S SPEECHES.

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# SPEECHES, ETC.

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## ON THE LINE OF THE PERDIDO.

*Speech in the Senate of the United States, on the subject of the Territory west of the Perdido, delivered 25th December, 1810.*

MR. PRESIDENT,

It would have gratified me if some other gentleman had undertaken to reply to the ingenious argument, which you have just heard. (Speech of Mr. Horsey.) But not perceiving any one disposed to do so, a sense of duty obliges me, though very unwell, to claim your indulgence, whilst I offer my sentiments on this subject, so interesting to the union at large, but especially to the western portion of it. Allow me, sir, to express my admiration at the more than Aristidean justice, which in a question of territorial title, between the United States and a foreign nation, induces certain gentlemen to espouse the pretensions of the foreign nation. Doubtless in any future negotiations, she will have too much magnanimity to avail herself of these spontaneous concessions in her favor, made on the floor of the Senate of the United States.

It was to have been expected that in a question like the present, gentlemen, even on the same side, would have different views, and although arriving at a common conclusion, would do so by various arguments. And hence the honorable gentleman from Vermont, entertains doubt with regard to our title against Spain, whilst he feels entirely satisfied of it against France. Believing, as I do, that our title against both powers is indisputable, under the treaty of St. Ildefonso, between Spain and France, and the treaty between the French Republic and the United States, I shall not inquire into the treachery, by which the king of Spain is alleged to have lost his crown; nor shall I stop to discuss the question involved in the overthrow of the Spanish monarchy, and how far the power of Spain ought to be considered as merged in that of France. I shall leave the honorable gentleman from Delaware to mourn over the fortunes of the fallen Charles. I have no commiseration for princes. My sympathies are reserved for the great mass of mankind, and I own that the people of Spain have them most sincerely.

I will adopt the course suggested by the nature of the subject and pursued by other gentlemen, of examining into our title to the country lying between the Mississippi and the Rio Perdido, (which to avoid circumlocution, I will call West Florida, although it is not the whole of it,) and the propriety of the recent measures taken for the occupation of that territory. Our title, then, depends, first, upon the limits of the province, or colony of Louisiana, and secondly, upon a just exposition of the treaties before mentioned.

On this occasion it is only necessary to fix the eastern boundary. In order to ascertain this, it will be proper to take a cursory view of the settlement of the country, because the basis of European title to colonies in America, is prior discovery, or prior occupancy. In 1682, La Salle migrated from Canada, then owned by France, descended the Mississippi, and named the country which it waters, Louisiana. About 1698, D'Iberville discovered by sea, the mouth of the Mississippi, established a colony at the Isle Dauphine, or Massacre, which lies at the mouth of the bay of Mobile, and one at the mouth of the river Mobile, and was appointed by France, governor of the country. In the year 1717, the famous West India company sent inhabitants to the Isle Dauphine, and found some of those who had been settled there under the auspices of D'Iberville. About the same period, Baloxi, near the Pascagoula, was settled. In 1719, the city of New Orleans was laid off, and the seat of government of Louisiana was established there; and in 1736, the French erected a fort on the Tombigbee. These facts prove that France had the actual possession of the country as far east as the Mobile at least. But the great instrument which ascertains, beyond all doubt, that the country in question is comprehended within the limits of Louisiana, is one of the most authentic and solemn character which the archives of a nation can furnish; I mean the patent granted in 1712, by Louis XIV, to Crozat—[Here Mr. C. read such parts of the patent as were applicable to the subject.\*] According to this document, in describing the pro-

\* Extract from the Grant to Crozat, dated at

"Fontainebleau, Sept. 14, 1712

"Louis, By the grace of God, &c.

"The care we have always had to procure the welfare and advantage of our subjects, having induced us, &c. to seek for all possible opportunities of enlarging and extending the trade of our American colonies, we did, in the year 1683, give our orders to undertake a discovery of the countries and lands which are situated in the northern part of America, between New France and New Mexico; and the Sieur de la Salle, to whom we committed that enterprise, having had success, enough to confirm a belief that a communication might be settled from New France to the Gulf of Mexico, by means of large rivers, this obliged us, immediately after the peace of Ryswic, to give orders for establishing a colony there, and maintaining a garrison, which has kept and preserved the possession we had taken in the very year 1683, of the lands, coasts, and islands which are situated in the Gulf of Mexico between Carolina on the east, and Old and New Mexico on the west. But a new war having broke out in Europe shortly after, there was no possibility, till now, of reaping from that Colony the advantages that might have been expected from thence, &c. And whereas, upon the information we have received concerning the disposition and situation of the said countries, known at present by the name of the Provinces of Louisiana, we are of opinion, that there may be established therein considerable commerce, &c.

vince, or colony of Louisiana, it is declared to be bounded by Carolina on the east, and Old and New Mexico on the west. Under this high record evidence, it might be insisted that we have a fair claim to East as well as West Florida, against France at least, unless she has by some convention, or other obligatory act, restricted the eastern limit of the province. It has, indeed, been asserted that by a treaty between France and Spain, concluded in the year 1719, the Perdido was expressly stipulated to be the boundary between their respective provinces of Florida on the East, and Louisiana on the West; but as I have been unable to find any such treaty, I am induced to doubt its existence.

About the same period, to-wit: towards the close of the seventeenth century, when France settled the Isle Dauphine, and the Mobile, Spain erected a fort at Pensacola. But Spain never pushed her actual settlements, or conquests, farther west than the bay of Pensacola, whilst those of the French were bounded on the east by the Mobile. Between those two points, a space of about thirteen or fourteen leagues, neither nation had the exclusive possession. The Rio Perdido, forming the bay of the same name, discharges itself into the gulf of Mexico, between the Mobile and Pensacola, and, being a natural and the most notorious object between them, presented itself as a suitable boundary between the possessions of the two nations. It accordingly, appears very early to have been adopted as the boundary by tacit, if not expressed, consent. The ancient charts and historians, therefore, of the country, so represent it. Dupratz, one of the most accurate historians of the time, in point of fact and detail, whose work was published as early as 1758, describes the coast as being bounded on the east by the Rio Perdido. In truth, sir, no European nation whatever, except France, ever occupied any portion of west Florida, prior to her cession of it to England in 1762. The gentlemen on the other side do not, indeed, strongly controvert, if they do not expressly admit, that Louisiana, as held by the French anterior to her cessions of it in 1762, extended to the Perdido. The only observation made by the gentleman from Delaware to the contrary, to-wit: that the island of New Orleans being particularly mentioned, could not,

we have resolved to grant the commerce of the country of Louisiana to the Sieur Anthony Crozat, &c. For these reasons, &c., we, by these presents, signed by our hand, have appointed and do appoint the said Sieur Crozat, to carry on a trade in all the lands possessed by us, and bounded by New Mexico *and by the lands of the English of Carolina*, all the establishments, ports, havens, rivers, and principally the port and haven of the Isle Dauphine, heretofore called Massacre; the river of St. Louis, heretofore called Mississippi, from the edge of the sea as far as the Illinois, together with the river St. Philip, heretofore called the Missouri, and of St. Jerome, heretofore called Onabache, with all the countries, territories, and lakes within land, and the rivers which fall directly or indirectly into that part of the river St. Louis.

*The Articles*—1. Our pleasure is, that all the aforesaid lands, countries, streams, rivers, and islands be, and *remain comprised under the name of the government of Louisiana*, which shall be dependent upon the general government of New France, to which it is subordinate: and further, that all the lands which we possess from the Illinois, be united, &c. to the general government of New France, and become part thereof, &c."



for that reason, constitute a part of Louisiana, is susceptible of a very satisfactory answer. That island was excepted out of the grant to England, and was the only part of the province east of the river that was so excepted. It formed in itself one of the most prominent and important objects of the cession to Spain originally, and was transferred to her with the portion of the province west of the Mississippi. It might with equal propriety, be urged that St. Augustine is not in East Florida, because St. Augustine is expressly mentioned by Spain in her cession of that province to England. From this view of the subject, I think it results that the province of Louisiana comprised West Florida previous to the year 1762.

What was done with it at this epoch? By a secret convention, of the 3d of November, of that year, France ceded the country lying west of the Mississippi, and the island of New Orleans, to Spain; and by a contemporaneous act, the articles preliminary to the definitive treaty of 1763, she transferred West Florida to England. Thus at the same instant of time, she alienated the whole province. Posterior to this grant, Great Britain having also acquired from Spain her possessions east of the Mississippi, erected the country into two provinces, East and West Florida. In this state of things it continued until the peace of 1783, when Great Britain, in consequence of the events of the war, surrendered the country to Spain, who for the *first* time came into actual possession of West Florida. Well, sir, how does she dispose of it? She re-annexes it to the residue of Louisiana—extends the jurisdiction of that government to it, and subjects the governors, or commandants, of the districts of Baton Rouge, Feliciana, Mobile, and Pensacola, to the authority of the governor of Louisiana, residing at New Orleans; while the governor of East Florida is placed wholly without his control, and is made amenable directly to the governor of the Havannah. Indeed, sir, I have been credibly informed that all the concessions, or grants of land, made in West Florida, under the authority of Spain, run in the name of the *government of Louisiana*. You cannot have forgotten that, about the period when we took possession of New Orleans, under the treaty of cession from France, the whole country resounded with the nefarious speculations which were alleged to be making in that city with the connivance, if not actual participation of the Spanish authorities, by the procurement of surreptitious grants of land, particularly in the district of Feliciana. West Florida, then, not only as France had held it, but as it was in the hands of Spain, made a part of the province of Louisiana; as much so as the jurisdiction, or district of Baton Rouge constituted a part of West Florida.

What, then, is the true construction of the treaties of St. Ildefonso, and of April, 1803, from whence our title is derived? If an ambiguity exist in a grant, the interpretation most favorable to the grantee is preferred. It was the duty of the grantor to have expressed himself in plain and intelligible terms. This

is the doctrine, not of Coke only, (whose dicta I admit have nothing to do with the question,) but of the code of universal law. The doctrine is entitled to augmented force, when a clause only of the instrument is exhibited, in which clause the ambiguity lurks, and the residue of the instrument is kept back by the grantor. The entire convention of 1762, by which France transferred Louisiana to Spain, is concealed, and the whole of the treaty of St. Ildefonso, except a solitary clause. We are thus deprived of the aid which a full view of both of those instruments would afford. But we have no occasion to resort to any rules of construction, however reasonable in themselves, to establish our title. A competent knowledge of the facts, connected with the case, and a candid appeal to the treaties, are alone sufficient to manifest our right. The negotiators of the treaty of 1803, having signed, with the same ceremony, two copies, one in English and the other in the French language, it has been contended that in the English version, the term "cede" has been erroneously used instead of "retrocede," which is the expression in the French copy. And it is argued that we are bound by the phraseology of the French copy, because it is declared that the treaty was agreed to in that language. It would not be very unfair to inquire if this is not like the common case in private life, where individuals enter into a contract, of which each party retains a copy, duly executed. In such case, neither has the preference. We might as well say to France, we will cling by the English copy, as she could insist upon an adherence to the French copy; and if she urged ignorance on the part of Mr. Marbois, her negotiator, of our language, we might with equal propriety plead ignorance on the part of our negotiators of her language. As this, however, is a disputable point, I do not avail myself of it; gentlemen shall have the full benefit of the expressions in the French copy. According to this, then, in reciting the treaty of St. Ildefonso, it is declared by Spain, in 1800, that she retrocedes to France the colony or province of Louisiana, with the same extent which it then had in the hands of Spain, and which it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states. This latter member of the description has been sufficiently explained by my colleague.

It is said that since France, in 1762, ceded to Spain only Louisiana west of the Mississippi, and the island of New-Orleans, the retrocession comprehended no more—that the retrocession *ex vi termini* was commensurate with, and limited by, the direct cession from France to Spain. If this were true, then the description, such as Spain held it, that is in 1800, comprising West Florida, and such as France possessed it, that is in 1762, prior to the several cessions, comprising also West Florida, would be totally inoperative. But the definition of the term retrocession, contended for by the other side, is denied. It does not exclude the instrumentality of a third party. It means resto-

ration, or re-conveyance of a thing originally ceded, and so the gentleman from Delaware acknowledged. I admit that the thing restored must have come to the restoring party from the party to whom it is retroceded; whether directly or indirectly is wholly immaterial. In its passage it may have come through a dozen hands. The retroceding party must claim *under* and in virtue of the right originally possessed by the party to whom the retrocession takes place. Allow me to put a case: You own an estate called Louisiana. You convey one moiety of it to the gentleman from Delaware, and the other to me; he conveys his moiety to me, and I thus become entitled to the whole. By a suitable instrument I re-convey, or retrocede the estate called Louisiana to you as I now hold it, and as you held it; what passes to you? The whole estate, or my moiety only? Let me indulge another supposition—that the gentleman from Delaware, after he received from you his moiety, bestowed a new denomination upon it and called it West Florida—would that circumstance vary the operation of my act of retrocession to you? The case supposed is in truth the real one between the United States and Spain. France, in 1762, transfers Louisiana, west of the Mississippi, to Spain, and at the same time conveys the eastern portion of it, exclusive of New-Orleans, to Great Britain. Twenty-one years after, that is, in 1783, Great Britain cedes her part to Spain, who thus becomes possessed of the entire province; one portion by direct cession from France, and the residue by indirect cession. Spain then held the whole of Louisiana *under* France, and in virtue of the title of France. The whole moved or passed from France to her. When, therefore, in this state of things, she says, in the treaty of St. Ildefonso, that she retrocedes the province to France, can a doubt exist that she parts with, and gives back to France, the entire colony? To preclude the possibility of such a doubt, she adds, that she restores it, not in a mutilated condition, but in that precise condition in which France had, and she herself possessed it.

Having thus shown, as I conceive, a clear right in the United States to West Florida, I proceed to inquire if the proclamation of the President directing the occupation of property, which is thus fairly acquired by solemn treaty, be an unauthorized measure of war and of legislation, as has been contended?

The act of October, 1803, contains two sections, by one of which the President is authorized to occupy the territories ceded to us by France in the April preceding. The other empowers the President to establish a provisional government there. The first section is unlimited in its duration; the other is restricted to the expiration of the then session of Congress. The act therefore of March, 1804, declaring that the previous act of October should continue in force until the 1st of October, 1804, is applicable to the second and not the first section, and was intended to continue the provisional government of the

**President.** By the act of 24th February, 1804, for laying duties on goods imported into the ceded territories, the President is empowered, *whenever he deems it expedient*, to erect the bay and river Mobile, &c., into a separate district, and to establish therein a port of entry and delivery. By this same act the Orleans territory is laid off, and its boundaries are so defined as to comprehend West Florida. By other acts, the President is authorized to remove by force, under certain circumstances, persons settling on or taking possession of lands ceded to the United States.

These laws furnish a legislative construction of the treaty, corresponding with that given by the Executive, and they indisputably vest in this branch of the general government the power to take possession of the country, whenever it might be proper in his discretion. The President has not therefore violated the constitution and usurped the war-making power, but he would have violated that provision which requires him to see that the laws are faithfully executed, if he had longer forborne to act. It is urged that he has assumed powers belonging to Congress, in undertaking to annex the portion of West Florida, between the Mississippi and the Perdido, to the Orleans territory. But Congress, as has been shown, has already made this annexation, the limits of the Orleans territory, as prescribed by Congress, comprehending the country in question. The President, by his proclamation, has not made law, but has merely declared to the people of West Florida what the law is. This is the office of a proclamation, and it was highly proper that the people of that territory should be thus notified. By the act of occupying the country, the government *de facto*, whether of Spain or the revolutionists, ceased to exist; and the laws of the Orleans territory applicable to the country, by the operation and force of law attached to it. But this was a state of things which the people might not know, and which every dictate of justice and humanity therefore required should be proclaimed. I consider the bill before us merely in the light of a declaratory law.

Never could a more propitious moment present itself for the exercise of the discretionary power placed in the President, and had he failed to embrace it, he would have been criminally inattentive to the dearest interests of this country. It cannot be too often repeated, that if Cuba on the one hand, and Florida on the other, are in the possession of a foreign maritime power, the immense extent of country belonging to the United States, and watered by streams discharging themselves into the Gulf of Mexico—that is one-third, nay, more than two-thirds of the United States, comprehending Louisiana, are placed at the mercy of that power. The possession of Florida is a guarantee absolutely necessary to the enjoyment of the navigation of those streams. The gentleman from Delaware anticipates the most direful consequences from the occupation of the country. He supposes a sally from a Spanish garrison upon the American

forces, and asks what is to be done? We attempt a peaceful possession of the country to which we are fairly entitled. If the wrongful occupants under the authority of Spain assail our troops, I trust they will retrieve the lost honor of the nation in the case of the Chesapeake. Suppose an attack upon any portion of the American army within the acknowledged limits of the United States by a Spanish force? In such event there would exist but a single honorable and manly course. The gentleman conceives it ungenerous that we should at this moment, when Spain is encompassed and pressed on all sides by the immense power of her enemy, occupy West Florida. Shall we sit by passive spectators, and witness the interesting transactions of that country—transactions which tend, in the most imminent degree, to jeopardize our rights, without attempting to interfere? Are you prepared to see a foreign power seize what belongs to us? I have heard in the most credible manner that, about the period when the President took his measures in relation to that country, agents of a foreign power were intriguing with the people there, to induce them to come under his dominion: but whether this be the fact or not, it cannot be doubted that, if you neglect the present auspicious moment—if you reject the proffered boon, some other nation, profiting by your errors, will seize the occasion to get a fatal footing in your southern frontier. I have no hesitation in saying, that if a parent country will not or cannot maintain its authority in a Colony adjacent to us, and there exists in it a state of misrule and disorder, menacing our peace, and if moreover such Colony, by passing into the hands of any other power, would become dangerous to the integrity of the Union, and manifestly tend to the subversion of our laws, we have a right, upon the eternal principles of self-preservation, to lay hold upon it. This principle alone, independent of any title, would warrant our occupation of West Florida. But it is not necessary to resort to it, our title being in my judgment incontestibly good. We are told of the vengeance of resuscitated Spain. If Spain, under any modification of her government, choose to make war upon us, for the act under consideration, the nation, I have no doubt, will be willing to embark in such a contest. But the gentleman reminds us that Great Britain, the ally of Spain, may be obliged, by her connexion with that country, to take part with her against us, and to consider this measure of the President as justifying an appeal to arms. Sir, is the time never to arrive when we may manage our own affairs without the fear of insulting His Britannic Majesty? Is the rod of British power to be forever suspended over our heads? Does Congress put on an embargo to shelter our rightful commerce against the piratical depredations committed upon it on the ocean—we are immediately warned of the indignation of offended England. Is a law of non-intercourse proposed—the whole navy of the haughty mistress of the seas is made to thunder in our ears. Does the President refuse to

continue a correspondence with a minister who violates the decorum belonging to his diplomatic character, by giving and deliberately repeating an affront to the whole nation—we are instantly menaced with the chastisement which English pride will not fail to inflict. Whether we assert our rights by sea, or attempt their maintenance by land—whithersoever we turn ourselves, this phantom incessantly pursues us. Already has it had too much influence on the councils of the nation. It contributed to the repeal of the embargo—that dishonorable repeal, which has so much tarnished the character of our government. Mr. President, I have before said on this floor, and now take occasion to remark, that I most sincerely desire peace and amity with England; that I even prefer an adjustment of all differences with her, before one with any other nation. But if she persists in a denial of justice to us, or if she avails herself of the occupation of West Florida to commence war upon us, I trust and hope that all hearts will unite in a bold and vigorous vindication of our rights. I do not believe, however, in the prediction that war will be the effect of the measure in question.

It is asked why, some years ago, when the interruption of the right of deposit took place at New-Orleans, the government did not declare war against Spain, and how it has happened that there has been this long acquiescence in the Spanish possession of West Florida? The answer is obvious. It consists in the genius of the nation, which is prone to peace; in that desire to arrange, by friendly negotiation, our disputes with all nations, which has constantly influenced the present and preceding administration; and in the jealousy of armies, with which we have been inspired by the melancholy experience of free estates. But a new state of things has arisen: negotiation has become hopeless. The power with whom it was to be conducted, if not annihilated, is in a situation that precludes it; and the subject-matter of it is in danger of being snatched forever from our power. Longer delay would be construed into a dereliction of our right, and would amount to treachery to ourselves. May I ask, in my turn, why certain gentlemen, now so fearful of war, were so urgent for it with Spain when she withheld the right of deposit? and still later, when in 1805 or 6 this very subject of the actual limits of Louisiana was before Congress? I will not say, because I do not know that I am authorized to say, *that the motive is to be found* in the change of relation between Spain and other European powers, since those periods.

Does the honorable gentleman from Delaware really believe that he finds in St. Domingo a case parallel with that of West Florida? and that our government, having interdicted an illicit commerce with the former, ought not to have interposed in relation to the latter. It is scarcely necessary to consume your time by remarking that we had no pretensions to that island; that it did not menace our repose, nor did the safety of the United

States require that they should occupy it. It became, therefore, our duty to attend to the just remonstrance of France against American citizens supplying the rebels with the means of resisting her power.

I am not, sir, in favor of cherishing the passion of conquest. But I must be permitted, in conclusion, to indulge the hope of seeing, ere long, the *new* United States, (if you will allow me the expression,) embracing, not only the old thirteen States, but the entire country east of the Mississippi, including East Florida, and some of the territories of the north of us also.

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## ON THE BANK CHARTER.

*Speech on the question of renewing the charter of the Bank of the United States, delivered in the Senate, 1811.*

MR. PRESIDENT,

When the subject involved in the motion now under consideration was depending before the other branch of the legislature, a disposition to acquiesce in their decision was evinced. For although the committee who reported this bill had been raised many weeks prior to the determination of that house on the proposition to re-charter the bank, except the occasional reference to it of memorials and petitions, we scarcely ever heard of it. The rejection, it is true, of a measure brought before either branch of Congress does not absolutely preclude the other from taking up the same proposition; but the economy of our time, and a just deference for the opinion of others, would seem to recommend a delicate and cautious exercise of this power. As this subject, at the memorable period when the charter was granted, called forth the best talents of the nation—as it has, on various occasions, undergone the most thorough investigation, and as we can hardly expect that it is susceptible of receiving any further elucidation, it was to be hoped that we should have been spared useless debate. This was the more desirable because there are, I conceive, much superior claims upon us for every hour of the small portion of the session yet remaining to us. Under the operation of these motives, I had resolved to give a silent vote, until I felt myself bound, by the defying manner of the arguments advanced in support of the renewal, to obey the paramount duties I owe my country and its constitution; to make one effort, however feeble, to avert the passage of what appears to me a most unjustifiable law. After my honorable friend from Virginia (Mr. Giles) had instructed and amused us with the very able and ingenious argument which he delivered on yesterday, I should have still forborne to trespass on the Senate but for the extraordinary character of his speech. He discussed both sides of the question with great ability and eloquence, and certainly



demonstrated to the satisfaction of all who heard him, both that it was constitutional and unconstitutional, highly proper and improper to prolong the charter of the bank. The honorable gentleman appeared to me in the predicament in which the celebrated orator of Virginia, Patrick Henry, is said to have been once placed. Engaged in a most extensive and lucrative practice of the law, he mistook in one instance the side of the cause in which he was retained, and addressed the court and jury in a very masterly and convincing speech in behalf of his antagonist. His distracted client came up to him whilst he was thus employed, and interrupting him, bitterly exclaimed, "you have undone me! You have ruined me!"—"Never mind, give yourself no concern," said the adroit advocate; and turning to the court and jury, continued his argument by observing, "may it please your honors, and you, gentlemen of the jury, I have been stating to you what I presume my adversary may urge on his side. I will now show you how fallacious his reasoning and groundless his pretensions are." The skilful orator proceeded, satisfactorily refuted every argument he had advanced, and gained his cause! A success with which I trust the exertion of my honorable friend will on this occasion be crowned.

It has been said by the honorable gentleman from Georgia, (Mr. Crawford) that this has been made a party question, although the law incorporating the bank was passed prior to the formation of parties, and when Congress was not biassed by party prejudices. (Mr. Crawford explained. He did not mean that it had been made a party question in the senate. His allusion was elsewhere.) I do not think it altogether fair to refer to the discussions in the house of representatives, as gentlemen belonging to that body have no opportunity of defending themselves here. It is true that this law was not the effect, but it is no less true that it was one of the causes of the political divisions in this country. And, if, during the agitation of the present question, the renewal has, on one side, been opposed on party principles, let me ask if, on the other, it has not been advocated on similar principles? Where is the Macedonian phalanx, the opposition in Congress? I believe, sir, I shall not incur the charge of presumptuous prophecy, when I predict we shall not pick up from its ranks one single straggler! And if, on this occasion, my worthy friend from Georgia has gone over into the camp of the enemy, is it kind in him to look back upon his former friends, and rebuke them for the fidelity with which they adhere to their old principles?

I shall not stop to examine how far a representative is bound by the instructions of his constituents. That is a question between the giver and receiver of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of state legislatures, and the opinions and details of the deputations with



which we have been surrounded from Philadelphia. Whilst the resolutions of those legislatures—known, legitimate, constitutional and deliberative bodies—have been thrown into the back ground, and their interference regarded as officious, these delegations from self-created societies, composed of nobody knows whom, have been received by the committee with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Delphic priests collect with more holy care the frantic expressions of the agitated Pythia, or expound them with more solemnity to the astonished Grecians, than has the committee gathered the opinions and testimonies of these deputies, and through the gentleman from Massachusetts, pompously detailed them to the senate! Philadelphia has her immediate representatives, capable of expressing her wishes upon the floor of the other house. If it be improper for states to obtrude upon Congress their sentiments, it is much more highly so for the unauthorised deputies of fortuitous congregations.

The first singular feature that attracts attention in this bill is the new and unconstitutional veto which it establishes. The constitution has required only, that after bills have passed the house of representatives and the senate, they shall be presented to the president for his approval or rejection, and his determination is to be made known in ten days. But this bill provides, that when all the constitutional sanctions are obtained, and when according to the usual routine of legislation it ought to be considered as a law, it is to be submitted to a new branch of the legislature, consisting of the president and twenty-four directors of the bank of the United States, holding their sessions in Philadelphia, and if they please to approve it, why then it is to become a law! And three months (the term allowed by our law of May last, to one of the great belligerents for revoking his edicts, after the other shall have repealed his) are granted them to decide whether an act of Congress shall be the law of the land or not! An act which is said to be indispensably necessary to our salvation, and without the passage of which universal distress and bankruptcy are to pervade the country. Remember, sir, that the honorable gentleman from Georgia has contended that this charter is no contract. Does it then become the representatives of the nation to leave the nation at the mercy of a corporation? Ought the impending calamities to be left to the hazard of a contingent remedy?

This vagrant power to erect a bank, after having wandered throughout the whole constitution in quest of some congenial spot to fasten upon, has been at length located by the gentleman from Georgia on that provision which authorizes Congress to lay and collect taxes, &c. In 1791, the power is referred to one part of the instrument; in 1811 to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed here it disappears, and shows itself under the grant to coin money. The sagacious secretary of the treasury

in 1791 pursued the wisest course—he has taken shelter behind general, high sounding and imposing terms. He has declared, in the preamble to the act establishing the bank, that it will be very *conducive* to the successful *conducting* of the national *finances*; will *tend* to give *facility* to the obtaining of loans, and will be *productive* of considerable advantage to *trade* and *industry* in general. No allusion is made to the collection of taxes. What is the nature of this government? It is emphatically federal, vested with an aggregate of specified powers for general purposes, conceded by existing sovereignties, who have themselves retained what is not so conceded. It is said that there are cases in which it must act on implied powers. This is not controverted, but the implication must be necessary, and obviously flow from the enumerated power with which it is allied. The power to charter companies is not specified in the grant, and I contend is of a nature not transferrable by mere implication. It is one of the most exalted attributes of sovereignty. In the exercise of this gigantic power we have seen an East India company created, which has carried dismay, desolation, and death, throughout one of the largest portions of the habitable world. A company which is in itself, a sovereignty—which has subverted empires and set up new dynasties—and has not only made war, but war against its legitimate sovereign! Under the influence of this power, we have seen arise a South Sea company, and a Mississippi company, that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy. Is it to be imagined that a power so vast would have been left by the wisdom of the constitution to doubtful inference? It has been alledged that there are many instances in the constitution, where powers, in their nature incidental, and which would have necessarily been vested along with the principal, are nevertheless expressly enumerated; and the power “to make rules and regulations for the government of the land and naval forces,” which it is said is incidental to the power to raise armies and provide a navy, is given as an example. What does this prove? How extremely cautious the convention were to leave as little as possible to implication. In all cases where incidental powers are acted upon, the principal and incidental ought to be congenial with each other, and partake of a common nature. The incidental power ought to be strictly subordinate and limited to the end proposed to be attained by the specified power. In other words, under the name of accomplishing one object which is specified, the power implied ought not to be made to embrace other objects, which are not specified in the constitution. If then you could establish a bank to collect and distribute the revenue, it ought to be expressly restricted to the purpose of such collection or distribution. It is mockery, worse than usurpation, to establish it for a lawful object, and then to extend it to other objects which are not lawful. In deducing the power to create corporations, such as I have described it, from the power to col-

lect taxes, the relation and condition of principal and incident are prostrated and destroyed. The accessory is exalted above the principal. As well might it be said that the great luminary of day is an accessory, a satellite to the humblest star that twinkles forth its feeble light in the firmament of heaven!

Suppose the constitution had been silent as to an individual department of this government, could you, under the power to lay and collect taxes, establish a judiciary? I presume not; but if you could derive the power by mere implication, could you vest it with any other authority than to enforce the collection of the revenue? A bank is made for the ostensible purpose of aiding in the collection of the revenue, and whilst it is engaged in this, the most inferior and subordinate of all its functions, it is made to diffuse itself throughout society, and to influence all the great operations of credit, circulation and commerce. Like the Virginia justice, you tell the man whose turkey had been stolen, that your books of precedents furnish no form for his case, but then you will grant him a precept to search for a cow, and when looking for that he may possibly find his turkey! You say to this corporation, we cannot authorise you to discount—to emit paper—to regulate commerce, &c. No! Our book has no precedents of that kind. But then we can authorize you to collect the revenue, and, whilst occupied with that, you may do whatever else you please!

What is a corporation such as the bill contemplates? It is a splendid association of favored individuals, taken from the mass of society, and invested with exemptions and surrounded by immunities and privileges. The honorable gentleman from Massachusetts, (Mr. Lloyd,) has said that the original law, establishing the bank, was justly liable to the objection of vesting in that institution an exclusive privilege, the faith of the government being pledged that no other bank should be authorized during its existence. This objection he supposes is obviated by the bill under consideration; but all corporations enjoy exclusive privileges—that is, the corporators have privileges which no others possess; if you create fifty corporations instead of one, you have only fifty privileged bodies instead of one. I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of debtors to their creditors. If Congress have the power to erect an artificial body, and say it shall be endowed with the attributes of an individual—if you can bestow on this object of your own creation the ability to contract, may you not, in contravention of state rights, confer upon slaves, infants and femmes covert the ability to contract? And if you have the power to say that an association of individuals shall be responsible for their debts only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals? Where is the limitation upon this power to set up corporations? You establish one in the

heart of a state, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves and personal estates, and thus the whole property within the jurisdiction of a state might be absorbed by these political bodies. The existing bank contends that it is beyond the power of a state to tax it, and if this pretension be well founded, it is in the power of Congress, by chartering companies to dry up all the sources of State revenue. Georgia has undertaken, it is true, to levy a tax on the branch within her jurisdiction, but this law, now under a course of litigation, is considered as invalid. The United States own a great deal of land in the State of Ohio. Can this government, for the purpose of creating an ability to purchase it, charter a company? Aliens are forbidden, I believe, in that State, to hold real estate—could you, in order to multiply purchasers, confer upon them the capacity to hold land, in derogation of the local law? I imagine this will hardly be insisted upon; and yet there exists a more obvious connexion between the undoubted power, which is possessed by this government, to sell its land, and the means of executing that power by increasing the demand in the market, than there is between this bank and the collection of a tax. This government has the power to levy taxes—to raise armies—provide a navy—make war—regulate commerce—coin money, &c., &c. It would not be difficult to show as intimate a connexion between a corporation, established for any purpose whatever, and some one or other of those great powers, as there is between the revenue and the bank of the United States.

Let us inquire into the actual participation of this bank in the collection of the revenue. Prior to the passage of the act of 1800, requiring the collectors of those ports of entry at which the principal bank, or any of its offices are situated, to deposit with them the custom-house bonds, it had not the smallest agency in the collection of the duties. During almost one moiety of the period to which the existence of this institution was limited, it was nowise instrumental in the collection of that revenue, to which it is now become indispensable! The collection previous to 1800, was made entirely by the collectors; and even at present, where there is one port of entry, at which this bank is employed, there are eight or ten at which the collection is made as it was before 1800. And, sir, what does this bank or its branches, where resort is had to it? It does not adjust with the merchant the amount of duty, nor take his bond, nor, if the bond is not paid, coerce the payment, by distress or otherwise. In fact, it has no active agency whatever in the collection. Its operation is merely passive; that is, if the obligor, after his bond is placed in the bank, discharges it, all is very well. Such is the mighty aid afforded by this tax-gatherer, without which the government cannot get along! Again, it is not pretended that the very limited assistance which this institution does in truth

render, extends to any other than a single species of tax, that is, duties. In the collection of the excise, the direct and other internal taxes, no aid was derived from any bank. It is true, in the collection of those taxes, the former did not obtain the same indulgence which the merchant receives in paying duties. But what obliges Congress to give credit at all? Could it not demand prompt payment of the duties? And, in fact, does it not so demand, in many instances? Whether credit is given or not, is a matter merely of discretion. If it be a facility to mercantile operations, (as I presume it is,) it ought to be granted. But I deny the right to engraft upon it a bank, which you would not otherwise have the power to erect. You cannot *create the necessity* of a bank, and then plead *that necessity* for its establishment. In the administration of the finances, the bank acts simply as a payer and receiver. The Secretary of the Treasury has money in New-York and wants it in Charleston—the bank will furnish him with a check, or bill, to make the remittance, which any merchant would do just as well.

I will now proceed to show by fact, actual experience, not theoretic reasoning, but by the records themselves of the treasury, that the operations of that department may be as well conducted without as with this bank. The delusion has consisted in the use of certain high-sounding phrases, dexterously used on the occasion—"the collection of the revenue"—"the administration of the finance"—"the conducting of the fiscal affairs of the government," the usual language of the advocates of the bank, extort express assent, or awe into acquiescence, without inquiry or examination into its necessity. About the commencement of this year, there appears, by the report of the Secretary of the Treasury of the 7th of January, to have been a little upwards of two millions and four hundred thousand dollars in the treasury of the United States; and more than one-third of this whole sum was in the vaults of local banks. In several instances where opportunities existed of selecting the bank, a preference has been given to the State bank, or at least a portion of the deposits has been made with it. In New-York, for example, there was deposited with the Manhattan Bank \$188,670, although a branch bank is in that city. In this District, \$115,080 were deposited with the Bank of Columbia, although here also is a branch bank, and yet the State banks are utterly unsafe to be trusted! If the money, after the bonds are collected, is thus placed with these banks, I presume there can be no difficulty in placing the bonds themselves there, if they must be deposited with some bank for collection, which I deny.

Again, one of the most important and complicated branches of the treasury department is the management of our landed system. The sales have, in some years, amounted to upwards of half a million of dollars—are generally made upon credit, and yet no bank whatever is made use of to facilitate the collection. After it is made, the amount, in some instances, has been

deposited with banks, and, according to the Secretary's report, which I have before adverted to, the amount so deposited was, in January, upwards of three hundred thousand dollars, not one cent of which was in the vaults of the Bank of the United States, or in any of its branches, but in the Bank of Pennsylvania, its branch at Pittsburgh, the Marietta Bank, and the Kentucky Bank. Upon the point of responsibility, I cannot subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any deposits which the government may make, under any exigency, is greater than that of the State banks; that the *accountability* of a ramified institution, whose affairs are managed by a single head, responsible for all its members, is more simple than that of a number of independent and unconnected establishments, I shall not deny; but, with regard to safety, I am strongly inclined to think it is on the side of the local banks. The corruption or misconduct of the parent, or any of its branches, may bankrupt or destroy the whole system, and the loss of the government, in that event, will be of the deposits made with each; whereas, in the failure of one State bank, the loss will be confined to the deposit in the vault of that bank. It is said to have been a part of Burr's plan to seize on the branch bank at New-Orleans. At that period large sums, imported from La Vera Cruz, are alledged to have been deposited with it, and if the traitor had accomplished the design, the bank of the United States, if not actually bankrupt, might have been constrained to stop payment.

It is urged by the gentleman from Massachusetts, (Mr. Lloyd) that as this nation advances in commerce, wealth, and population, new energies will be unfolded, new wants and exigences will arise, and hence he infers that powers must be implied from the constitution. But, sir, the question is, shall we stretch the instrument to embrace cases not fairly within its scope, or shall we resort to that remedy, by amendment, which the constitution prescribes?

Gentlemen contend that the construction which they give to the constitution has been acquiesced in by all parties and under all administrations; and they rely particularly on an act which passed in 1804, for extending a branch to New-Orleans; and another act of 1807, for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed no doubt upon the recommendation of the treasury department, I would remark, that it was the extension of a branch to a territory over which Congress possesses the power of legislation almost uncontrolled, and where, without any constitutional impediment, charters of incorporation may be granted. As to the other act, it was passed no less for the benefit of the community than the bank—to protect the ignorant and unwary from counterfeit paper, purporting to have been emitted by the bank. When gentlemen are claiming the advantage supposed to be deducible from acquiescence, let me inquire what they would have had



those to do, who believed the establishment of a bank an encroachment upon state rights? Were they to have resisted, and how? By force? Upon the change of parties in 1800, it must be well recollected that the greatest calamities were predicted as a consequence of that event. Intentions were ascribed to the new occupants of power, of violating the public faith, and prostrating national credit. Under such circumstances, that they should act with great circumspection, was quite natural. They saw in full operation a bank, chartered by a Congress who had as much right to judge of their constitutional powers as their successors. Had they revoked the law which gave it existence, the institution would, in all probability, continued to transact business notwithstanding. The judiciary would have been appealed to, and from the known opinions and predilections of the judges then composing it, they would have pronounced the act of incorporation, as in the nature of a contract, beyond the repealing power of any succeeding legislature. And, sir, what a scene of confusion would such a state of things have presented—an act of Congress, which was law in the statute book, and a nullity on the judicial records! was it not the wisest to wait the natural dissolution of the corporation rather than accelerate that event by a repealing law involving so many delicate considerations?

When gentlemen attempt to carry this measure upon the ground of acquiescence or precedent, do they forget that we are not in Westminster Hall? In courts of justice, the utility of uniform decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law, this practice is wise and proper, and without it, every thing depending upon the caprice of the judge, we should have no security for our dearest rights. It is far otherwise when applied to the source of legislation. Here no rule exists but the constitution, and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances to legislate, is to sanctify error and perpetuate usurpation. But if we are to be subjected to the trammels of precedent, I claim on the other hand, the benefit of the restrictions under which the intelligent judge cautiously receives them. It is an established rule that to give to a previous adjudication any effect, the mind of the judge who pronounced it must have been awakened to the subject, and it must have been a deliberate opinion formed after full argument. In technical language, it must not have been *sub silentio*. Now the acts of 1804 and 1807, relied upon as pledges for the rechartering this company, passed not only without any discussions whatever of the constitutional power of Congress to establish a bank, but, I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the senate when the latter law passed, probably voted for it, and I declare with the utmost sincerity that I never once thought of that point, and I appeal confidently to every

honorable member who was then present, to say if that was not his situation.

This doctrine of precedents, applied to the legislature, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government over all others, is, that we have a *written* constitution, defining its limits, and prescribing its authorities; and that, however, for a time, faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur, when calmly retracing their deeds, all aberrations from fundamental principle will be corrected. But once substitute *practice* for principle—the exposition of the constitution for the text of the constitution, and in vain shall we look for the instrument in the instrument itself! It will be as diffused and intangible as the pretended constitution of England:—and must be sought for in the statute book, in the fugitive journals of Congress, and in reports of the secretary of the treasury! What would be our condition if we were to take the interpretations given to that sacred book, which is, or ought to be, the criterion of our faith, for the book itself? We should find the Holy Bible buried beneath the interpretations, glosses, and comments of councils, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility towards each other! They ought to afford us a solemn warning to make that constitution which we have sworn to support, our invariable guide.

I conceive, then, sir, that we were not empowered by the constitution, nor bound by any practice under it, to renew the charter of this bank, and I might here rest the argument. But as there are strong objections to the renewal on the score of expediency, and as the distresses which will attend the dissolution of the bank, have been greatly exaggerated, I will ask for your indulgence for a few moments longer. That some temporary inconvenience will arise, I shall not deny; but most groundlessly have the recent failures in New-York been attributed to the discontinuance of this bank. As well might you ascribe to that cause the failures of Amsterdam and Hamburg, of London and Liverpool. The embarrassments of commerce—the sequestrations in France—the Danish captures—in fine, the belligerent edicts, are the obvious sources of these failures. Their immediate cause in the return of bills upon London, drawn upon the faith of unproductive or unprofitable shipments. Yes, sir, the protests of the notaries of London, not those of New York, have occasioned these bankruptcies.

The power of a nation is said to consist in the sword and the purse. Perhaps at last all power is resolvable into that of the purse, for with it you may command almost every thing else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars, and if it be no more, one moiety is in the vaults of this bank. May not the time arrive



when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation, will be dangerous to our liberties? By whom is this immense power wielded? By a body, who, in derogation of the great principle of all our institutions, responsibility to the people, is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this government—would not the traitor first aim by force or corruption to acquire the treasure of this company? Look at it in another aspect. Seven-tenths of its capital are in the hands of foreigners, and these foreigners chiefly English subjects. We are possibly on the eve of a rupture with that nation. Should such an event occur, do you apprehend that the English premier would experience any difficulty in obtaining the entire control of this institution? Republics, above all other governments, ought most seriously to guard against foreign influence. All history proves that the internal dissensions excited by foreign intrigue, have produced the downfall of almost every free government that has hitherto existed; and yet, gentlemen contend that we are benefitted by the possession of this foreign capital! If we could have its use, without its attending abuse, I should be gratified also. But it is in vain to expect the one without the other. Wealth is power, and, under whatsoever form it exists, its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued that our possession of this English capital gives us a great influence over the British government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the reasoning of the gentlemen on the other side. But let us put aside this theory, and appeal to the decisions of experience. Go to the other side of the Atlantic, and see what has been achieved for us there by Englishmen holding seven-tenths of the capital of this bank. Has it released from galling and ignominious bondage one solitary American seaman bleeding under British oppression? Did it prevent the unmanly attack upon the Chesapeake? Did it arrest the promulgation, or has it abrogated the orders in council—those orders which have given birth to a new era in commerce? In spite of all its boasted effect, are not the two nations brought to the very brink of war? Are we quite sure, that on this side of the water, it has had no effect favorable to British interests? It has often been stated, and although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty—and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggression.

The duke of Northumberland is said to be the most consider-

able stockholder in the bank of the United States. A late lord chancellor of England, besides other noblemen, was a large stockholder. Suppose the prince of Eesling, the duke of Cadore, and other French dignitaries owned seven eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the senate) to re-charter it? So far from it, would not the danger of French influence be resounded throughout the nation?

I shall therefore give my most hearty assent to the motion for striking out the first section of the bill.

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## INCREASE OF THE NAVY.

*Speech on the Navy Bill, delivered in the House of Representatives, January 22, 1812.*

Mr. Clay (the speaker) rose to present his views on the bill before the committee. He said, as he did not precisely agree in opinion with any gentleman who had spoken, he should take the liberty of detaining the committee a few moments, while he offered to their attention some observations. He was highly gratified with the temper and ability with which the discussion had hitherto been conducted. It was honorable to the house, and, he trusted, would continue to be manifested on many future occasions.

On this interesting topic a diversity of opinion has existed almost ever since the adoption of the present government. On the one hand, there appeared to him to have been attempts made to precipitate the nation into all the evils of naval extravagance, which had been productive of so much mischief in other countries; and on the other, strongly feeling this mischief, there has existed an unreasonable prejudice against providing such a competent naval protection for our commercial and maritime rights as is demanded by their importance, and as the increased resources of the country amply justify.

The attention of Congress has been invited to this subject by the president, in his message delivered at the opening of the session. Indeed, had it been wholly neglected by the chief magistrate, from the critical situation of the country, and the nature of the rights proposed to be vindicated, it must have pressed itself upon our attention. But, said Mr. Clay, the president in his message observes: "Your attention will, of course, be drawn to such provisions on the subject of our naval force as may be required for the service to which it is best adapted. I submit to Congress the seasonableness also of an authority to augment the stock of such materials as are imperishable in their nature or may not at once be attainable?" The president, by this recommendation, clearly intimates an opinion that the naval force of this country is capable of producing effect; and the

propriety of laying up imperishable materials, was no doubt suggested for the purpose of making additions to the navy, as convenience and exigences might direct.

It appeared to Mr. C. a little extraordinary that so much, as it seemed to him, unreasonable jealousy should exist against the naval establishment. If, said he, we look back to the period of the formation of the constitution, it will be found that no such jealousy was then excited. In placing the physical force of the nation at the disposal of Congress, the convention manifested much greater apprehension of abuse in the power given to raise armies, than in that to provide a navy. In reference to the navy, Congress is put under no restrictions; but with respect to the army—that description of force which has been so often employed to subvert the liberties of mankind—they are subjected to limitations designed to prevent the abuse of this dangerous power. But it was not his intention to detain the committee by a discussion on the comparative utility and safety of these two kinds of force. He would, however, be indulged in saying, that he thought gentlemen had wholly failed in maintaining the position they had assumed, that the fall of maritime powers was attributable to their navies. They have told you, indeed, that Carthage, Genoa, Venice, and other nations, had navies, and notwithstanding were finally destroyed. But have they shown by a train of argument, that their overthrow was, in any degree, attributable to their maritime greatness? Have they attempted even to show that there exists in the nature of this power a necessary tendency to destroy the nation using it? Assertion is substituted for argument, inferences not authorised by historical facts are arbitrarily drawn; things wholly unconnected with each other are associated together—a very logical mode of reasoning it must be admitted! In the same way he could demonstrate how idle and absurd our attachments are to freedom itself. He might say, for example, that Greece and Rome had forms of free government, and that they no longer exist; and, deducing their fall to their devotion to liberty, the conclusion, in favor of despotism, would very satisfactorily follow! He demanded what there is in the nature and construction of maritime power to excite the fears that have been indulged? Do gentlemen really apprehend that a body of seamen will abandon their proper element, and, placing themselves under an aspiring chief, will erect a throne to his ambition? Will they deign to listen to the voice of history, and learn how chimerical are their apprehensions?

But the source of alarm is in ourselves. Gentlemen fear that if we provide a marine it will produce collisions with foreign nations—plunge us into war, and ultimately overturn the constitution of the country. Sir, if you wish to avoid foreign collision you had better abandon the ocean—surrender all your commerce; give up all your prosperity. It is the thing protected, not the instrument of protection, that involves you in war. Commerce engenders collision, collision war, and war, the argu-

ment supposes, leads to despotism. Would the councils of that statesman be deemed wise who would recommend that the nation should be unarmed—that the art of war, the martial spirit, and martial exercises, should be prohibited—who should declare in the language of Othello that the nation must bid farewell to the neighing steed, and the shrill trump, the spirit stirring drum, the ear piercing fife, and all the pride, pomp and circumstance of glorious war—and that the great body of the people should be taught that the national happiness was to be found in perpetual peace alone? No, sir. And yet every argument in favor of a power of protection on land applies, in some degree, to a power of protection on the sea. Undoubtedly a commerce void of naval protection is more exposed to rapacity than a guarded commerce; and if we wish to invite the continuance of the old or the enactment of new edicts, let us refrain from all exertion upon that element where we must operate, and where, in the end, they must be resisted.

For his part (Mr. C. said) he did not allow himself to be alarmed by those apprehensions of maritime power which appeared to agitate other gentlemen. In the nature of our government he beheld abundant security against abuse. He would be unwilling to tax the land to support the rights of the sea, and was for drawing from the sea itself the resources with which its violated freedom should at all times be vindicated. Whilst this principle is adhered to, there will be no danger of running into the folly and extravagance which so much alarms gentlemen; and whenever it is abandoned—whenever Congress shall lay burthensome taxes to augment the navy beyond what may be authorized by the increase of wealth, and demanded by the exigences of the country, the people will interpose, and, removing their unworthy representatives, apply the appropriate corrective. Mr. C. then could not see any just ground of dread in the nature of naval power. It was on the contrary free from the evils attendant upon standing armies. And the genius of our institutions—the great representative principle, in the practical enjoyment of which we are so eminently distinguished, afforded the best guarantee against the ambition and wasteful extravagance of government. What maritime strength is it expedient to provide for the United States? In considering this subject, three different degrees of naval power present themselves. In the first place, such a force as would be capable of contending with that which any other nation is able to bring on the ocean—a force that, boldly scouring every sea, would challenge to combat the fleets of other powers however great. He admitted it was impossible at this time, perhaps it never would be desirable, for this country to establish so extensive a navy. Indeed he should consider it as madness in the extreme in this government to attempt to provide a navy able to cope with the fleets of Great Britain, wherever they might be met.

The next species of naval power to which he would advert, is that which, without adventuring into distant seas, and keeping generally in our own harbors, and on our coasts, would be competent to beat off any squadron which might be attempted to be permanently stationed in our waters. His friends from South Carolina (Messrs. Cheeves and Lowndes) had satisfactorily shown that, to effect this object, a force equivalent only to one-third of that which the maintenance of such a squadron must require, would be sufficient—that if, for example, England should determine to station permanently upon our coast a squadron of twelve ships of the line, it would require for this service thirty-six ships of the line, one-third in port repairing, one-third on the passage, and one-third on the station. But that is a force which it has been shown that even England, with her boasted navy, could not spare for the American service, whilst she is engaged in the present contest. Mr. C. said that he was desirous of seeing such a force as he had described, that is, twelve ships of the line, and fifteen or twenty frigates, provided for the United States; but he admitted that it was unattainable in the present situation of the finances of the country. He contended, however, that it was such as Congress ought to set about providing, and he hoped in less than ten years to see it actually established. He was far from surveying the vast maritime power of Great Britain with the desponding eye with which other gentlemen beheld it. He could not allow himself to be discouraged at a prospect of even her thousand ships. This country only required resolution, and a proper exertion of its immense resources, to command respect, and to vindicate every essential right. When we consider our remoteness from Europe, the expense, difficulty and perils to which any squadron would be exposed while stationed off our coasts, he entertained no doubt that the force to which he referred would ensure the command of our own seas. Such a force would avail itself of our extensive sea-board and numerous harbors, every where affording asylums, to which it could safely retire from a superior fleet, or from which it could issue for the purpose of annoyance. To the opinion of his colleague, (Mr. McKee,) who appeared to think that it was in vain for us to make any struggle on the ocean, he would oppose the sentiments of his distinguished connexion, the heroic Daviess, who fell in the battle of Tippecanoe. [Here Mr. C. read certain parts of a work written by Col. Daviess, in which the author attempts to show, that, as the aggressions upon our commerce were not committed by fleets, but by single vessels, they could in the same manner be best retaliated: that the force of about twenty or thirty frigates would be capable of inflicting great injury on English commerce by picking up stragglers, cutting off convoys, and seizing upon every moment of supineness; and that such a force, with our sea-ports and harbors well fortified, and aided by privateers, would be really formidable, and would annoy the British navy and com-

merce, just as the French army was assailed in Egypt, the Persian army in Scythia, and the Roman army in Parthia.]

The third description of force, worthy of consideration, is that which would be able to prevent any single vessel, of whatever metal, from endangering our whole coasting trade, blocking up our harbors, and laying under contribution our cities—a force competent to punish the insolence of the commander of any single ship, and to preserve in our own jurisdiction the inviolability of our peace and our laws. A force of this kind is entirely within the compass of our means, at this time. Is there a reflecting man in the nation who would not charge Congress with a culpable neglect of its duty, if, for the want of such a force, a single ship were to bombard one of our cities! Would not every honorable member of the committee inflict on himself the bitterest reproaches, if, by failing to make an inconsiderable addition to our little gallant navy, a single British vessel should place New-York under contribution! Yes, sir, when the city is in flames, its wretched inhabitants begin to repent of their neglect, in not providing engines and water buckets. If, said Mr. C., we are not able to meet the wolves of the forest, shall we put up with the barking impudence of every petty cur that trips across our way? Because we cannot guard against every possible danger, shall we provide against none? He hoped not. He had hardly expected that the instructing but humiliating lesson was so soon to be forgotten which was taught us in the murder of Pierce—the attack on the Chesapeake—and the insult offered in the very harbor of Charleston, which the brave old fellow who commanded the fort in vain endeavored to chastise. It was a rule with Mr. C., when acting either in a public or private character, to attempt nothing more than what there existed a prospect of accomplishing. He was therefore not in favor of entering into any mad projects on this subject, but for deliberately and resolutely pursuing what he believed to be within the power of government. Gentlemen refer to the period of 1798, and we are reminded of the principles maintained by the opposition at that time. He had no doubt of the correctness of that opposition. The naval schemes of that day were premature, not warranted by the resources of the country, and were contemplated for an unnecessary war into which the nation was about to be plunged. He always admired and approved the zeal and ability with which that opposition was conducted by the distinguished gentleman now at the head of the treasury. But the state of things is totally altered. What was folly in 1798 may be wisdom now. At that time we had a revenue only of about six millions. Our revenue now, upon a supposition that commerce is restored, is about sixteen millions. The population of the country too is greatly increased, nearly doubled, and the wealth of the nation is perhaps tripled. Whilst our ability to construct a navy is thus enhanced, the necessary maritime protection is proportionably augmented. Independent of the extension of our com-

merce, since the year 1798 we have had an addition of more than five hundred miles to our coast, from the bay of Perdido to the mouth of the Sabine—a weak and defenceless accession, requiring, more than any other part of our maritime frontier, the protecting arm of government.

The groundless imputation, that those who were friendly to a navy were espousing a principle inimical to freedom, should not terrify him. He was not ashamed when in such company as the illustrious author of the notes on Virginia, whose opinion on the subject of a navy, contained in that work, contributed to the formation of his own. But the principle of a navy, Mr. C. contended, was no longer open to controversy. It was decided when Mr. Jefferson came into power. With all the prejudices against a navy which are alledged by some to have been then brought into the administration—with many honest prejudices, he admitted—the rash attempt was not made to destroy the establishment. It was reduced to only what was supposed to be within the financial capacity of the country. If, ten years ago, when all those prejudices were to be combatted, even in time of peace, it was deemed proper, by the then administration, to retain in service ten frigates, he put it to the candor of gentlemen to say, if now, when we are on the eve of a war, and taking into view the actual growth of the country, and the acquisition of our coast on the Gulf of Mexico, we ought not to add to the establishment.

Mr. C. said he had hitherto alluded more particularly to the exposed situation of certain parts of the Atlantic frontier. Whilst he felt the deepest solicitude for the safety of New-York, and other cities on the coast, he would be pardoned by the committee for referring to the interests of that section of the union from which he came. If, said he, there be a point more than any other in the United States, demanding the aid of naval protection, that point is the mouth of the Mississippi. What is the population of the western country, dependant on this single outlet for its surplus productions? Kentucky, according to the last enumeration, has 406,511, Tennessee 261,727, and Ohio 230,760. And when the population of the western parts of Virginia and Pennsylvania, and the territories which are drained by the Mississippi or its waters, is added, it will form an aggregate equal to about one-fifth of the whole population of the United States, resting all their commercial hopes upon this solitary vent! The bulky articles of which their surplus productions consist, can be transported no other way. They will not bear the expense of a carriage up the Ohio and Tennessee, and across the mountains, and the circuitous voyage of the lakes is out of the question. Whilst most other states have the option of numerous outlets, so that if one be closed resort can be had to others, this vast population has no alternative. Close the mouth of the Mississippi and their export trade is annihilated. He called the attention of his western friends, especially his worthy Kentucky friends (from



whom he felt himself with regret constrained to differ on this occasion) to the state of the public feeling in that quarter, whilst the navigation of the Mississippi was withheld by Spain ; and to the still more recent period when the right of depot was violated. The whole country was in commotion, and, at the nod of government, would have fallen on Baton Rouge and New-Orleans, and punished the treachery of a perfidious government. Abandon all idea of protecting, by maritime force, the mouth of the Mississippi, and we shall have the recurrence of many similar scenes. We shall hold the inestimable right of the navigation of that river by the most precarious tenure. The whole commerce of the Mississippi—a commerce that is destined to be the richest that was ever borne by a single stream—is placed at the mercy of a single ship lying off the Balize ! Again : the convulsions of the new world, still more perhaps than those of Europe, challenge our attention. Whether the ancient dynasty of Spain is still to be upheld or subverted, is extremely uncertain, if the bonds connecting the parent country with her colonies are not forever broken. What is to become of Cuba ? Will it assert independence or remain the province of some European power ? In either case the whole trade of the western country, which must pass almost within gun-shot of the Moro Castle, is exposed to danger. It was not however of Cuba he was afraid. He wished her independent. But suppose England gets possession of that valuable island. With Cuba on the south and Halifax on the north—and the consequent means of favoring or annoying commerce of particular sections of the country—he asked if the most sanguine amongst us would not tremble for the integrity of the Union ? If, along with Cuba, Great Britain should acquire East Florida, she will have the absolute command of the Gulf of Mexico. Can gentlemen, particularly gentlemen from the western country, contemplate such possible, nay probable, events, without desiring to see at least the commencement of such a naval establishment as would effectually protect the Mississippi ? He intreated them to turn their attention to the defenceless situation of the Orleans Territory, and to the nature of its population. It is known that whilst under the Spanish government they experienced the benefit of naval security. Satisfy them that under the government of the United States, they will enjoy less protection, and you disclose the most fatal secret.

The general government receives annually for the public lands, about \$600,000. One of the sources whence the western people raise this sum, is the exportation of the surplus productions of that country. Shut up the Mississippi, and this source is in a great measure dried up. But suppose this government to look upon the occlusion of the Mississippi without making an effort on that element, where alone it could be made successfully, to remove the blockading force, and at the same time to be vigorously pressing payment for the public lands ; he shuddered at



the consequences. Deep rooted as he knew the affections of the western people to be to the Union, (and he would not admit their patriotism to be surpassed by any other quarter of the country) if such a state of things were to last any considerable time, he should seriously apprehend a withdrawal of their confidence. Nor, sir, could we derive any apology for the failure to afford this protection from the want of the materials for naval architecture. On the contrary, all the articles entering into the construction of a navy, iron, hemp, timber, pitch, abound in the greatest quantities on the waters of the Mississippi. Kentucky alone, he had no doubt, raised hemp enough the last year for the whole consumption of the United States.

If, as he conceived, gentlemen had been unsuccessful in showing that the downfall of maritime nations was ascribable to their navies, they have been more fortunate in showing by the instances to which they had referred, that without a marine no foreign commerce could exist to any extent. It is the appropriate—the natural (if the term may be allowed) connexion of foreign commerce. The shepherd and his faithful dog are not more necessary to guard the flocks that browse and gambol on the neighboring mountain. He considered the prosperity of foreign commerce indissolubly allied to marine power. Neglect to provide the one and you must abandon the other. Suppose the expected war with England is commenced, you enter and subjugate Canada, and she still refuses to do you justice—what other possible mode will remain to operate on the enemy but upon that element where alone you can then come in contact with him? And if you do not prepare to protect there your own commerce and to assail his, will he not sweep from the ocean every vessel bearing your flag, and destroy even the coasting trade? But from the arguments of gentlemen it would seem to be questioned if foreign commerce is worth the kind of protection insisted upon. What is this foreign commerce that has suddenly become so inconsiderable? It has, with very trifling aid from other sources, defrayed the expenses of government ever since the adoption of the present constitution—maintained an expensive and successful war with the Indians—a war with the Barbary powers—a quasi war with France—sustained the charges of suppressing two insurrections, and extinguishing upwards of forty-six millions of the public debt. In revenue it has, since the year 1789, yielded one hundred and ninety-one millions of dollars. During the first four years after the commencement of the present government, the revenue averaged only about two millions annually—during a subsequent period of four years it rose to an average of fifteen millions annually, or became equivalent to a capital of two hundred and fifty millions of dollars, at an interest of six per centum per annum. And if our commerce is re-established, it will, in the course of time, nett a sum for which we are scarcely furnished with figures in arithmetic. Taking the average of the last nine years (comprehending of course the season of the embargo) our

exports average upwards of thirty-seven millions of dollars, which is equivalent to a capital of more than six hundred millions of dollars, at six per centum interest, all of which must be lost in the event of a destruction of foreign commerce. In the abandonment of that commerce is also involved the sacrifice of our brave tars, who have engaged in the pursuit from which they derive subsistence and support, under the confidence that government would afford them that just protection which is due to all. They will be driven into foreign employment, for it is vain to expect that they will renounce their habits of life.

The spirit of commercial enterprize so strongly depicted by the gentleman from New-York (Mr. Mitchel) is diffused throughout the country. It is a passion as unconquerable as any with which nature has endowed us. You may attempt indeed to regulate, but you cannot destroy it. It exhibits itself as well on the waters of the western country as on the waters and shores of the Atlantic. Mr. C. had heard of a vessel built at Pittsburgh having crossed the Atlantic and entered a European port (he believed that of Leghorn.) The master of the vessel laid his papers before the proper custom officer, which, of course, stated the place of her departure. The officer boldly denied the existence of any such American port as Pittsburgh, and threatened a seizure of the vessel as being furnished with forged papers. The affrighted master procured a map of the United States, and, pointing out the Gulf of Mexico, took the officer to the mouth of the Mississippi—traced the course of the Mississippi more than a thousand miles to the mouth of the Ohio; and conducting him still a thousand miles higher, to the junction of the Alleghany and Monongahela—there, he exclaimed, stands Pittsburgh, the port from which I sailed! The custom-house officer, prior to the production of this evidence, would have as soon believed that the vessel had performed a voyage from the moon.

In delivering the sentiments he had expressed, Mr. C. considered himself as conforming to a sacred constitutional duty. When the power to provide a navy was confided to Congress, it must have been the intention of the convention to submit only to the discretion of that body the period when that power should be exercised. That period had, in his opinion, arrived, at least for making a respectable beginning. And whilst he thus discharged what he conceived to be his duty, he derived great pleasure from the reflection that he was supporting a measure calculated to impart additional strength to our happy Union. Diversified as are the interests of its various parts, how admirably do they harmonize and blend together! We have only to make a proper use of the bounties spread before us, to render us prosperous and powerful. Such a navy as he had contended for, will form a new bond of connexion between the states concentrating their hopes, their interests, and their affections.

## ON THE NEW ARMY BILL.

*Speech on the New Army Bill, delivered in the House of Representatives, January, 1813*

Mr. Clay (the speaker,) said he was gratified yesterday by the recommitment of this bill to a committee of the whole house, from two considerations; one, since it afforded him a slight relaxation from a most fatiguing situation; and the other, because it furnished him with an opportunity of presenting to the committee, his sentiments upon the important topics which had been mingled in the debate. He regretted, however, that the necessity under which the chairman had been placed of putting the question,\* precluded the opportunity he had wished to enjoy, of rendering more acceptable to the committee any thing he might have to offer on the interesting points, on which it was his duty to touch. Unprepared, however, as he was to speak on this day, of which he was the more sensible, from the ill state of his health, he would solicit the attention of the committee for a few moments.

I was a little astonished, I confess, said Mr. C., when I found this bill permitted to pass silently through the committee of the whole, and, not selected, until the moment when the question was about to be put for its third reading, as the subject on which gentlemen in the opposition chose to lay before the House their views of the interesting attitude in which the nation stands. It did appear to me, that the Loan bill, which will soon come before us, would have afforded a much more proper occasion, it being more essential, as providing the ways and means for the prosecution of the war. But the gentlemen had the right of selection, and having exercised it, no matter how improperly, I am gratified, whatever I may think of the character of some part of the debate, at the latitude in which for once, they have been indulged. I claim only, in return, of gentlemen on the other side of the House, and of the committee, a like indulgence in expressing my sentiments, with the same unrestrained freedom. Perhaps in the course of the remarks which I may feel myself called upon to make, gentlemen may apprehend that they assume too harsh an aspect; but I have only now to say, that I shall speak of parties, measures, and things, as they strike my moral sense, protesting against the imputation of any intention, on my part, to wound the feelings of any *gentlemen*.

Considering the situation in which this country is now placed—a state of actual war with one of the most powerful nations on the earth—it may not be useless to take a view of the past, and of the various parties which have at different times appeared in

\*The chairman had risen to put the question, which would have cut Mr. C. off from the opportunity of speaking, by carrying the bill to the House.—*Editor*.

this country, and to attend to the manner by which we have been driven from a peaceful posture, to our present warlike attitude. Such an inquiry may assist in guiding us to that result, an honorable peace, which must be the sincere desire of every friend to America. The course of that opposition, by which the administration of the government had been unremittingly impeded for the last twelve years, was singular, and, I believe, unexampled in the history of any country. It has been alike the duty and the interest of the administration to preserve peace. It was their duty, because it is necessary to the growth of an infant people, to their genius, and to their habits. It was their interest, because a change of the condition of the nation brings along with it a danger of the loss of the affections of the people. The administration has not been forgetful of these solemn obligations. No art has been left unassayed; no experiment, promising a favorable result, left untried, to maintain the peaceful relations of the country. When, some six or seven years ago, the affairs of the nation assumed a threatening aspect, a partial non-importation was adopted. As they grew more alarming, an embargo was imposed. It would have accomplished its purpose, but it was sacrificed upon the altar of conciliation. Vain and fruitless attempt to propitiate! Then came along non-intercourse; and a general non-importation followed in the train. In the mean time, any indications of a return to the public law and the path of justice, on the part of either belligerent, are seized upon with avidity by the administration—the arrangement with Mr. Erskine is concluded. It is first applauded, and then censured by the opposition. No matter with what unfeigned sincerity, with what real effort administration cultivates peace, the opposition insist that it alone is culpable for every breach that is made between the two countries. Because the President thought proper, in accepting the proffered reparation for the attack on a national vessel, to intimate that it would have better comported with the justice of the king, (and who does not think so?) to punish the offending officer, the opposition, entering into the royal feelings, sees in that imaginary insult, abundant cause for rejecting Mr. Erskine's arrangement. On another occasion, you cannot have forgotten the hypocritical ingenuity which they displayed, to divest Mr. Jackson's correspondence of a premeditated insult to this country. If gentlemen would only reserve for their own government, half the sensibility which is indulged for that of Great Britain, they would find much less to condemn. Restriction after restriction has been tried—negotiation has been resorted to, until further negotiation would have been disgraceful. Whilst these peaceful experiments are undergoing a trial, what is the conduct of the opposition? They are the champions of war—the proud—the spirited—the sole repository of the nation's honor—the men of exclusive vigor and energy. The administration, on the contrary, is weak, feeble, and pusillanimous—"incapable of being kicked into a war." The maxim, "not a cent

for tribute, millions for defence," is loudly proclaimed. *Is the administration for negotiation?* The opposition is tired, sick, disgusted with negotiation. They want to draw the sword and avenge the nation's wrongs. When, however, foreign nations, perhaps, emboldened by the very opposition here made, refuse to listen to the amicable appeals, which have been repeated and reiterated by the administration, to their justice and to their interests—when, in fact, war with one of them has become identified with our independence and our sovereignty, and to abstain from it was no longer possible, behold the opposition veering round and becoming the friends of peace and commerce. They tell you of the calamities of war—its tragical events, the squandering away of your resources—the waste of the public treasure, and the spilling of innocent blood. "Gorgons, hydras and chimeras dire." They tell you that honor is an illusion! Now we see them exhibiting the terrific forms of the roaring king of the forest. Now the meekness and humility of the lamb! They are for war and no restrictions, when the administration is for peace. They are for peace and restrictions, when the administration is for war. You find them, sir, tacking with every gale, displaying the colors of every party, and of all nations, steady only in one unalterable purpose, to steer, if possible, into the haven of power.

During all this time, the parasites of opposition do not fail by cunning sarcasm or sly inuendo to throw out the idea of French influence, which is known to be false, which ought to be met in one manner only, and that is by the lie direct. The administration of this country devoted to foreign influence! The administration of this country subservient to France! Great God! what a charge! how is it so influenced? By what ligament, on what basis, on what possible foundation does it rest? Is it similarity of language? No! we speak different tongues, we speak the English language. On the resemblance of our laws? No! the sources of our jurisprudence spring from another and a different country. On commercial intercourse? No! we have comparatively none with France. Is it from the correspondence in the genius of the two governments? No! here alone is the liberty of man secure from the inexorable despotism, which every where else tramples it under foot. Where then is the ground of such an influence? But, sir, I am insulting you by arguing on such a subject. Yet, preposterous and ridiculous as the insinuation is, it is propagated with so much industry, that there are persons found foolish and credulous enough to believe it. You will, no doubt, think it incredible (but I have nevertheless been told it as a fact,) that an honorable member of this house, now in my eye, recently lost his election by the circulation of a silly story in his district, that he was the first cousin of the emperor Napoleon. The proof of the charge rested on the statement of facts, which was undoubtedly true. The gentleman in question, it was alleged, had married a connexion of the lady of the President of the United States, who was the intimate friend of Thomas Jef

person, late President of the United States, who some years ago was in the habit of wearing red French breeches. Now, taking these premises as established, you, Mr. Chairman, are too good a logician not to see that the conclusion necessarily follows!

Throughout the period he had been speaking of, the opposition has been distinguished, amidst all its veerings and changes, by another inflexible feature—the application to Bonaparte of every vile and opprobrious epithet, our language, copious as it is in terms of vituperation, affords. He has been compared to every hideous monster and beast, from that mentioned in the Revelations, down to the most insignificant quadruped. He has been called the scourge of mankind, the destroyer of Europe, the great robber, the infidel, the modern Attila, and heaven knows by what other names. Really, gentlemen remind me of an obscure lady, in a city not very far off, who also took it into her head, in conversation with an accomplished French gentleman, to talk of the affairs of Europe. She too spoke of the destruction of the balance of power, stormed and raged about the insatiable ambition of the Emperor; called him the curse of mankind, the destroyer of Europe. The Frenchman listened to her with perfect patience, and, when she had ceased, said to her, with ineffable politeness, “Madam, it would give my master, the Emperor, infinite pain, if he knew how hardly you thought of him.” Sir, gentlemen appear to me to forget that they stand on American soil; that they are not in the British House of Commons, but in the chamber of the House of Representatives of the United States; that we have nothing to do with the affairs of Europe, the partition of territory and sovereignty there, except so far as these things affect the interests of our own country. Gentlemen transform themselves into the Burkes, Chathams and Pitts of another country, and forgetting, from honest zeal, the interests of America, engage with European sensibility in the discussion of European interests. If gentlemen ask me whether I do not view with regret and horror the concentration of such vast power in the hands of Bonaparte, I reply that I do. I regret to see the Emperor of China holding such immense sway over the fortunes of millions of our species. I regret to see Great Britain possessing so uncontrolled a command over all the waters of our globe. If I had the ability to distribute among the nations of Europe their several portions of power and sovereignty, I would say that Holland should be resuscitated, and given the weight she enjoyed in the days of her De Witts. I would confine France within her natural boundaries, the Alps, Pyrenees, and the Rhine, and make her a secondary naval power only. I would abridge the British maritime power, raise Prussia and Austria to their original condition, and preserve the integrity of the empire of Russia. But these are speculations. I look at the political transactions of Europe, with the single exception of their possible bearing upon us, as I do at the history of other countries, or other times. I do not survey them with half the

interest that I do the movements in South America. Our political relations with them is much less important than it is supposed to be. I have no fears of French or English subjugation. If we are united, we are too powerful for the mightiest nation in Europe, or all Europe combined. If we are separated and torn assunder, we shall become an easy prey to the weakest of them. In the latter dreadful contingency, our country will not be worth preserving.

Next to the notice which the opposition has found itself called upon to bestow upon the French Emperor, a distinguished citizen of Virginia, formerly President of the United States, has never for a moment failed to receive their kindest and most respectful attention. An honorable gentleman from Massachusetts, (Mr. Quincy,) of whom I am sorry to say it becomes necessary for me, in the course of my remarks, to take some notice, has alluded to him in a remarkable manner. Neither his retirement from public office, his eminent services, nor his advanced age, can exempt this patriot from the coarse assaults of party malevolence. No, sir, in 1801 he snatched from the rude hand of usurpation the violated constitution of his country, and *that* is his crime. He preserved that instrument, in form, and substance, and spirit, a precious inheritance for generations to come, and for *this* he can never be forgiven. How vain and impotent is party rage, directed against such a man! He is not more elevated by his lofty residence, upon the summit of his own favorite mountain, than he is lifted, by the serenity of his mind, and the consciousness of a well spent life, above the malignant passions and bitter feelings of the day. No! his own beloved Monticello, is not more moved by the storms that beat against its sides, than is this illustrious man, by the howlings of the whole British pack set loose from the Essex kennel! When the gentleman to whom I have been compelled to allude shall have mingled his dust with that of his abused ancestors—when he shall have been consigned to oblivion, or, if he lives at all, shall live only in the treasonable annals of a certain junto, the name of Jefferson will be hailed with gratitude, his memory honored and cherished as the second founder of the liberties of the people, and the period of his administration will be looked back to as one of the happiest and brightest epochs of American history;\* an Oasis in the midst of a sandy desert. But I beg the gentleman's pardon; he has indeed secured to himself a more imperishable fame than I had supposed. I think it was about four years ago that he submitted to the House of Representatives an initiative proposition for an impeachment of Mr. Jefferson. The House condescended to consider it. The gentleman debated it with his usual *temper, moderation* and *urbanity*. The House decided upon it in the most solemn manner, and, although the gentleman had some how obtained a second, the final vote stood, one for, and one hundred and seventeen against the proposition!

\*This prediction is already beginning to be realized.—En.



The same historic page that transmitted to posterity the virtue and the glory of Henry the Great of France, for their admiration and example, has preserved the infamous name of the fanatic assassin of that excellent monarch. The same sacred pen that portrayed the sufferings and crucifixion of the Saviour of mankind, has recorded, for universal execration, the name of him who was guilty, not of betraying his country, but (a kindred crime,) of betraying his God.

In one respect there is a remarkable difference between the administration and the opposition;—it is in a sacred regard for personal liberty. When out of power my political friends condemned the surrender of Jonathan Robbins, they opposed the violation of the freedom of the press, in the sedition law; they opposed the more insidious attack upon the freedom of the person under the imposing garb of an alien law. The party now in opposition, then in power, advocated the sacrifice of the unhappy Robbins, and passed those two laws. True to our principles, we are now struggling for the liberty of our seamen against foreign oppression. True to theirs, they oppose a war undertaken for this object. They have indeed lately affected a tender solicitude for the liberties of the people, and talk of the danger of standing armies, and the burden of taxes. But it must be evident to you, Mr. Chairman, that they speak in a foreign idiom. Their brogue evinces that it is not their vernacular tongue. What! the opposition who, in 1798 and 1799, could raise an useless army to fight an enemy three thousand miles distant from us, alarmed at the existence of one raised for a known and specified object—the attack of the adjoining provinces of the enemy. What! the gentleman from Massachusetts, who assisted by his vote to raise the army of 25,000, alarmed at the danger of our liberties from this very army!

But, sir, I must speak of another subject, which I never think of but with feelings of the deepest awe. The gentleman from Massachusetts, in imitation of some of his predecessors of 1799, has entertained us with a picture of cabinet plots, presidential plots, and all sorts of plots, which have been engendered by the diseased state of the gentleman's imagination. I wish, sir, that another plot of a much more serious and alarming character,—a plot that aims at the dismemberment of our Union, had only the same imaginary existence. But no man, who has paid any attention to the tone of certain prints, and to transactions in a particular quarter of the Union, for several years past, can doubt the existence of such a plot. It was far, very far from my intention to charge the opposition with such a design. No, I believe them generally incapable of it. But I cannot say as much for some, who have been unworthily associated with them in the quarter of the Union to which I have referred. The gentleman cannot have forgotten his own sentiment, uttered even on the floor of this house, "peaceably if we can, FORCIBLY if we



must ;” nearly at the very time Henry’s mission to Boston was undertaken. The flagitiousness of that embassy had been attempted to be concealed, by directing the public attention to the price which, the gentleman says, was given for the disclosure. As if any price could change the atrociousness of the attempt on the part of Great Britain, or could extenuate, in the slightest degree, the offence of those citizens, who entertained and deliberated upon a proposition so infamous and unnatural! There was a most remarkable coincidence between some of the things which that man states, and certain events in the quarter alluded to. In the contingency of a war with Great Britain, it will be recollected that the neutrality and eventual separation of that section of the Union was to be brought about. How, sir, has it happened, since the declaration of war, that British officers in Canada have asserted to American officers, that this very neutrality would take place? That they have so asserted can be established beyond controversy. The project is not brought forward openly, with a direct avowal of the intention. No, the stock of good sense and patriotism in that portion of the country is too great to be undisguisedly encountered. It is assailed from the masked batteries of friendship, of peace and commerce on the one side, and by the groundless imputation of opposite propensities on the other. The affections of the people there, are gradually to be undermined. The project is suggested or withdrawn; the diabolical *dramatis personæ*, in this criminal tragedy, make their appearance, or exit, as the audience, to whom they address themselves, applaud, or condemn. I was astonished sir, in reading lately a letter, or pretended letter, published in a prominent print in that quarter, and written not in the fervor of party zeal, but coolly and dispassionately, to find that the writer affected to reason about a separation, and attempted to demonstrate its advantages to the different portions of the Union,—deploring the existence now of what he terms prejudices against it, but hoping for the arrival of the period when they shall be eradicated. But, sir, I will quit this unpleasant subject; I will turn from one, whom no sense of decency or propriety could restrain from soiling the carpet on which he treads,\* to gentlemen who have not forgotten what is due to themselves, to the place in which we are assembled, or to those by whom they are opposed. The gentlemen from North Carolina, (Mr. Pearson,) from Connecticut, (Mr. Pitkin,) and from New York, (Mr. Bleeker,) have, with their usual decorum, contended that the war would not have been declared, had it not been for the duplicity of France, in withholding an authentic instrument, repealing the decrees of Berlin and Milan, that upon the exhibition of such an instrument the revocation of the orders in council took place; that this main cause of the war, but for which it would not have been declared, being removed, the administra-

\* It is due to Mr. C. to observe, that one of the most offensive expressions used by Mr. Q., an expression which produced disgust on all sides of the house, has been omitted in that gentleman’s reported speech, which in other respects has been much softened.—Editor.

tion ought to seek for the restoration of peace ; and that upon its sincerely doing so, terms compatible with the honor and interest of this country might be obtained. It is my purpose, said Mr. C. to examine, first, into the circumstances under which the war was declared ; secondly, into the causes of continuing it ; and lastly, into the means which have been taken, or ought to be taken to procure peace ; but sir, I am really so exhausted that, little as I am in the habit of asking of the house an indulgence of this kind, I feel I must trespass on their goodness.

[Here Mr. C. sat down. Mr. Newton then moved that the committee rise, report progress and ask leave to sit again, which was done. On the next day he proceeded.]

I am sensible, Mr. Chairman, that some part of the debate, to which this bill has given rise, has been attended by circumstances much to be regretted, not usual in this House, and of which it is to be hoped, there will be no repetition. The gentleman from Boston had so absolved himself from every rule of decorum and propriety, had so outraged all decency, that I have found it impossible to suppress the feelings excited on the occasion. His colleague, whom I have the honor to follow, (Mr. Wheaton,) whatever else he might not have proved, in his very learned, ingenious and original exposition of the powers of this government—an exposition in which he has sought, where nobody before him has, and nobody after him will, look, for a grant of our powers, I mean the preamble to the constitution,—has clearly shown, to the satisfaction of all who heard him, that the power of defensive war is conferred. I claim the benefit of a similar principle, in behalf of my political friends, against the gentleman from Boston. I demand only the exercise of the right of repulsion. No one is more anxious than I am to preserve the dignity and freedom of debate—no member is more responsible for its abuse, and if, on this occasion, its just limits have been violated, let him, who has been the unprovoked aggressor, appropriate to himself, exclusively, the consequences.

I omitted yesterday, sir, when speaking of a delicate and painful subject, to notice a powerful engine which the conspirators against the integrity of the Union, employ to effect their nefarious purposes—I mean southern influence. The true friend to his country, knowing that our constitution was the work of compromise, in which interests apparently conflicting were attempted to be reconciled, aims to extinguish or allay prejudices. But this patriotic exertion does not suit the views of those who are urged on by diabolical ambition. They find it convenient to imagine the existence of certain improper influences, and to propagate with their utmost industry a belief of them. Hence the idea of southern preponderance,—Virginia influence,—the yoking of the respectable yeomanry of the north, with negro slaves, to the car of southern nabobs. If Virginia really cherished a reprehensible ambition, an aim to monopolize the chief magistracy of the country, how was such a purpose to be accomplished? Virginia,

alone, cannot elect a president, whose elevation depends upon a plurality of electoral votes, and a consequent concurrence of many states. Would Vermont, disinterested Pennsylvania, the Carolinas, independent Georgia, Kentucky, Tennessee, Ohio, Louisiana, all consent to become the tools of inordinate ambition? But the present incumbent was designated to the office before his predecessor had retired. How? By public sentiment,—public sentiment which grew out of his known virtues, his illustrious services, and his distinguished abilities. Would the gentleman crush this public sentiment,—is he prepared to admit that he would arrest the progress of opinion?

The war was declared because Great Britain arrogated to herself the pretension of regulating our foreign trade, under the delusive name of retaliatory orders in council,—a pretension by which she undertook to proclaim to American enterprise: "Thus far shalt thou go, and no farther,"—orders which she refused to revoke after the alledged cause of their enactment had ceased; because she persisted in the practice of impressing American seamen; because she had instigated the Indians to commit hostilities against us; and because she refused indemnity for her past injuries upon our commerce. I throw out of the question other wrongs. The war in fact was announced, on our part, to meet the war which she was waging on her part. So undeniable were the causes of the war,—so powerfully did they address themselves to the feelings of the whole American people, that when the bill was pending before this House, gentlemen in the opposition, although provoked to debate, would not or could not utter one syllable against it. It is true they wrapped themselves up in sullen silence, pretending they did not choose to debate such a question in secret session. Whilst speaking of the proceedings on that occasion, I beg to be permitted to advert to an other fact which transpired,—an important fact, material for the nation to know, and which I have often regretted had not been spread upon our journals. My honorable colleague (Mr. M'Kee) moved, in committee of the whole, to comprehend France in the war; and when the question was taken upon the proposition, there appeared but ten votes in support of it, of whom seven belonged to this side of the House, and three only to the other! It is said that we were inveigled into the war by the perfidy of France; and that had she furnished the document in time, which was first published in England, in May last, it would have been prevented. I will concede to gentlemen every thing they ask about the injustice of France towards this country. I wish to God that our ability was equal to our disposition, to make her feel the sense that we entertain of that injustice. The manner of the publication of the paper in question, was undoubtedly extremely exceptionable. But I maintain that had it made its appearance earlier, it would not have had the effect supposed; and the proof lies in the unequivocal declarations of the British government. I will trouble

you sir, with going no further back than to the letters of the British minister, addressed to the secretary of state, just before the expiration of his diplomatic functions. It will be recollected by the committee that he exhibited to this government a despatch from Lord Castlereagh, in which the principle was distinctly avowed, that to produce the effect of a repeal of the orders in council, the French decrees must be absolutely and entirely revoked as to all the world, and not as to America alone. A copy of that despatch was demanded of him, and he very awkwardly evaded it. But on the tenth June, after the bill declaring war had actually passed this house, and was pending before the senate, (and which, I have no doubt, was known to him,) in a letter to Mr. Monroe, he says: "I have no hesitation, sir, in saying that Great Britain, as the case has hitherto stood, never did, nor ever *could* engage, without the greatest injustice to herself and her allies, as well as to other neutral nations, to repeal her orders as affecting America alone, leaving them in force against other states, upon condition that France would except singly and specially, America from the operation of her decrees." On the fourteenth of the same month, the bill still pending before the senate, he repeats: "I will now say, that I feel entirely authorized to assure you, that if you can at any time produce a *full and unconditional* repeal of the French decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any question concerning our maritime rights, we shall be ready to meet you with a revocation of the orders in council. Previously to your producing *such* an instrument, which I am sorry to see you regard as unnecessary, you cannot expect of us to give up our orders in council." Thus, sir, you see that the British government would not be content with a repeal of the French decrees as to us only. But the French paper in question was such a repeal. It could not therefore satisfy the British government. It could not therefore have induced that government, had it been earlier promulgated, to repeal the orders in council. It could not therefore have averted the war. The withholding of it did not occasion the war, and the promulgation of it would not have prevented the war. But gentlemen have contended that, in point of fact, it did produce a repeal of the orders in council. This I deny. After it made its appearance in England, it was declared by one of the British ministry, in parliament, not to be satisfactory. And all the world knows, that the repeal of the orders in council resulted from the inquiry, reluctantly acceded to by the ministry, into the effect upon their manufacturing establishments, of our non-importation law, or to the warlike attitude assumed by this government, or to both. But it is said that the orders in council are withdrawn, no matter from what cause; and that having been the sole motive for declaring the war, the relations of peace ought to be restored. This brings me to the examination of the

grounds for continuing the present hostilities between this country and Great Britain.

I am far from acknowledging that, had the orders in council been repealed, as they have been, before the war was declared, the declaration of hostilities would of course have been prevented. In a body so numerous as this is, from which the declaration emanated, it is impossible to say, with any degree of certainty, what would have been the effect of such a repeal. Each member must answer for himself. As to myself, I have no hesitation in saying, that I have always considered the impressment of American seamen as much the most serious aggression. But, sir, how have those orders at last been repealed? Great Britain, it is true, has intimated a willingness to suspend their practical operation, but she still arrogates to herself the right to revive them upon certain contingencies, of which she constitutes herself the sole judge. She waves the temporary use of the rod, but she suspends it *in terrorem* over our heads. Supposing it to be conceded to gentlemen that such a repeal of the orders in council as took place on the twenty-third June last, exceptionable as it is, being known before the war was proclaimed, would have prevented it: does it follow that it ought to induce us to lay down our arms, without the redress of any other injury of which we complain? Does it follow, in all cases, that that which would, in the first instance, have prevented, would also terminate the war? By no means. It requires a strong and powerful effort in a nation, prone to peace as this is, to burst through its habits and encounter the difficulties and privations of war. Such a nation ought but seldom to embark in a belligerent contest; but when it does, it should be for obvious and essential rights alone, and should firmly resolve to extort, at all hazards, their recognition. The war of the revolution is an example of a war begun for one object and prosecuted for another. It was waged, in its commencement, against the right asserted by the parent country to tax the colonies. Then no one thought of absolute independence. The idea of independence was repelled. But the British government would have relinquished the principle of taxation. The founders of our liberties saw, however, that there was no security short of independence, and they achieved that independence. When nations are engaged in war, those rights in controversy, which are not acknowledged by the treaty of peace, are abandoned. And who is prepared to say, that American seamen shall be surrendered, as victims to the British principle of impressment? And, sir, what is this principle? She contends that she has a right to the services of her own subjects; and that, in the exercise of this right, she may lawfully impress them, even although she finds them in American vessels, upon the high seas, without her jurisdiction. Now I deny that she has any right, beyond her jurisdiction, to come on board our vessels, upon the high seas, for any other purpose than in the pursuit of enemies, or their goods, or

goods contraband of war. But she further contends, that her subjects cannot renounce their allegiance to her, and contract a new obligation to other sovereigns. I do not mean to go into the general question of the right of expatriation. If, as is contended, all nations deny it, all nations at the same time admit and practice the right of naturalization. Great Britain herself does this. Great Britain, in the very case of foreign seamen, imposes, perhaps, fewer restraints upon naturalization than any other nation. Then, if subjects cannot break their original allegiance, they may, according to universal usage, contract a new allegiance. What is the effect of this double obligation? Undoubtedly, that the sovereign having the possession of the subject, would have the right to the services of the subject. If he return within the jurisdiction of his primitive sovereign, he may resume his right to his services, of which the subject, by his own act, could not divest himself. But his primitive sovereign can have no right to go in quest of him, out of his own jurisdiction, into the jurisdiction of another sovereign, or upon the high seas, where there exists either no jurisdiction, or it is possessed by the nation owning the ship navigating them. But, sir, this discussion is altogether useless. It is not to the British principle, objectionable as it is, that we are alone to look; it is to her practice, no matter what guise she puts on. It is in vain to assert the inviolability of the obligation of allegiance. It is in vain to set up the plea of necessity, and to alledge that she cannot exist without the impressment of HER seamen. The naked truth is, she comes, by her press gangs, on board of our vessels, seizes OUR native as well as naturalized seamen, and drags them into her service. It is the case, then, of the assertion of an erroneous principle, and of a practice not conformable to the asserted principle—a principle which, if it were theoretically right, must be forever practically wrong—a practice which can obtain countenance from no principle whatever, and to submit to which, on our part, would betray the most abject degradation. We are told, by gentlemen in the opposition, that government has not done all that was incumbent on it to do, to avoid just cause of complaint on the part of Great Britain—that, in particular, the certificates of protection, authorized by the act of 1796, are fraudulently used. Sir, government has done too much in granting those paper protections. I can never think of them without being shocked. They resemble the passes which the master grants to his negro slave—"let the bearer, Mungo, pass and repass without molestation." What do they imply? That Great Britain has a right to seize all who are not provided with them. From their very nature they must be liable to abuse on both sides. If Great Britain desires a mark by which she can know her own subjects, let her give them an ear mark. The colors that float from the mast head should be the credentials of our seamen. There is no safety to us, and the gentlemen have shown it, but in the rule that all who sail



under the flag, (not being enemies,) are protected by the flag. It is impossible that this country should ever abandon the gallant tars who have won for us such splendid trophies. Let me suppose that the Genius of Columbia should visit one of them in his oppressor's prison, and attempt to reconcile him to his forlorn and wretched condition. She would say to him, in the language of gentlemen on the other side, "Great Britain intends you no harm; she did not mean to impress you, but one of her own subjects; having taken you by mistake, I will remonstrate, and try to prevail upon her, by peaceable means, to release you, but I cannot, my son, fight for you." If he did not consider this mere mockery, the poor tar would address her judgment and say, "you owe me, my country, protection; I owe you, in return, obedience. I am no British subject; I am a native of old Massachusetts, where live my aged father, my wife, my children. I have faithfully discharged my duty. Will you refuse to do yours?" Appealing to her passions, he would continue: "I lost this eye in fighting under Truxton, with the Insurgente; I got this scar before Tripoli; I broke this leg on board the Constitution, when the Guerriere struck." If she remained still unmoved, he would break out, in the accents of mingled distress and despair

Hard, hard is my fate! once I freedom enjoyed,  
Was as happy as happy could be!  
Oh! how hard is my fate, how galling these chains!

I will not imagine the dreadful catastrophe to which he would be driven, by an abandonment of him to his oppressor. It will not be, it cannot be, that his country will refuse him protection.

It is said that Great Britain has been always willing to make a satisfactory arrangement of the subject of impressment, and that Mr. King had nearly concluded one prior to his departure from that country. Let us hear what that minister says, upon his return to America. In his letter dated at New-York, in July, 1803, after giving an account of his attempt to form an arrangement for the protection of our seamen, and his interviews to this end with Lords Hawkesbury and St. Vincent, and stating that, when he had supposed the terms of a convention were agreed upon, a new pretension was set up, (the *mare clausum*,) he concludes: "I regret not to have been able to put this business on a satisfactory footing, knowing as I do its very great importance to both parties; but I flatter myself that I have not misjudged the interests of our own country, in refusing to sanction a principle that might be productive of more extensive evils than those it was our aim to prevent." The sequel of his negotiation, on this affair, is more fully given in the recent conversation

\* It is impossible to describe the pathetic effect produced by this part of the speech. The day was chilling cold, so much so, that Mr. Clay, has been heard to declare, that it was the only time he ever spoke, when he was unable to keep himself warm by the exercise of speaking, yet there were few eyes that did not testify to the sensibility excited.—EDITOR.

between Mr. Russell and Lord Castlereagh, communicated to Congress during its present session. Lord Castlereagh says to Mr. Russell :

“Indeed there has evidently been much misapprehension on this subject, an erroneous belief entertained that an arrangement in regard to it, has been nearer an accomplishment than the facts will warrant. Even our friends in Congress, I mean those who are opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement, solely to the misconduct of the American government. This error probably originated with Mr. King, for, being much esteemed here, and always well received by the persons in power, he seems to have misconstrued their readiness to listen to his representations, and their warm professions of a disposition to remove the complaints of America in relation to impressment, into a supposed conviction on their part, of the propriety of adopting the plan which he had proposed. But Lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangement on the subject, to be attended with formidable, if not insurmountable obstacles. This is obvious from a letter which his lordship addressed to Sir Wm. Scott at the time.” Here Lord Castlereagh read a letter, contained in the records before him, in which Lord St. Vincent states to Sir Wm. Scott the zeal with which Mr. King has assailed him on the subject of impressment, confesses his own perplexity, and total incompetency to discover any practical project for the safe discontinuance of that practice, and asks for council and advice. “Thus you see,” proceeded Lord Castlereagh, “that the confidence of Mr. King on his subject was entirely unfounded.”

Thus it is apparent, that, at no time, has the enemy been willing to place this subject on a satisfactory footing. I will speak hereafter of the overtures made by administration since the war.

The honorable gentleman from New York (Mr. Bleeker,) in the very sensible speech with which he favored the committee, made one observation which did not comport with his usual liberal and enlarged views. It was that those who are most interested against the practice of impressment, did not desire a continuance of the war on account of it, whilst those (the southern and western members,) who had no interest in it, were the zealous advocates of American seamen. It was a provincial sentiment unworthy of that gentleman. It was one which, in a change of condition, he would not express, because I know he could not feel it. Does not that gentleman feel for the unhappy victims of the tomahawk in the western wilds, although his quarter of the Union may be exempted from similar barbarities? I am sure he does. If there be a description of rights which, more than any other, should unite all parties in all quarters of the Union, it is unquestionably the rights of the person. No matter what his



vocation; whether he seeks subsistence amidst the dangers of the deep, or draws them from the bowels of the earth, or from the humblest occupations of mechanic life: whenever the sacred rights of an American freeman are assailed, all hearts ought to unite and every arm should be braced to vindicate his cause.

The gentleman from Delaware sees in Canada no object worthy of conquest. According to him, it is a cold, sterile and inhospitable region. And yet, such are the allurements which it offers, that the same gentleman apprehends that, if it be annexed to the United States, already too much weakened by an extension of territory, the people of New-England will rush over the line and depopulate that section of the Union! That gentleman considers it honest to hold Canada as a kind of hostage; to regard it as a sort of bond for the good behaviour of the enemy. But he will not enforce the bond. The actual conquest of that country would, according to him, make no impresssion upon the enemy, and yet the very apprehension only of such a conquest would at all times have a powerful operation upon him! Other gentlemen consider the invasion of that country as wicked and unjustifiable. Its inhabitants are represented as harmless and unoffending; as connected with those of the bordering States by a thousand tender ties, interchanging acts of kindness, and all the offices of good neighborhood. Canada, said Mr. Clay, innocent! Canada, unoffending! Is it not in Canada that the tomahawk of the savage has been moulded into its death-like form? Has it not been from Canadian magazines, Malden and others, that those supplies have been issued which nourish and continue the Indian hostilities? supplies which have enabled the savage hordes to butcher the garrison of Chicago, and to commit other horrible excesses and murders? Was it not by the joint co-operation of Canadians and Indians that a remote American fort, Michilimackinac, was assailed and reduced, while in ignorance of a state of war? But, sir, how soon have the opposition changed their tone! When administration was striving, by the operation of peaceful measures, to bring Great Britain back to a sense of justice, they were for old-fashioned war. And now they have got old-fashioned war, their sensibilities are cruelly shocked, and all their sympathies lavished upon the harmless inhabitants of the adjoining provinces. What does a state of war present? The united energies of one people, arrayed against the combined energies of another—a conflict in which each party aims to inflict all the injury it can, by sea and land, upon the territories, property and citizens of the other, subject only to the rules of mitigated war, practised by civilized nations. The gentleman would not touch the continental provinces of the enemy, nor, I presume, for the same reason, her possessions in the West Indies. The same humane spirit would spare the seamen and soldiers of the enemy. The sacred person of his majesty must not be attacked, for the learned gentlemen, on the other side, are quite familiar with the maxim, that the king can do no

wrong. Indeed, sir, I know of no person on whom we may make war, upon the principles of the honorable gentlemen, but Mr. Stephen, the celebrated author of the orders in council, or the board of admiralty, who authorize and regulate the practice of impressment!

The disasters of the war admonish us, we are told, of the necessity of terminating the contest. If our achievements by land have been less splendid than those of our intrepid seamen by water, it is not because the American soldier is less brave. On the one element organization, discipline, and a thorough knowledge of their duties exist, on the part of the officers and their men. On the other almost every thing is yet to be acquired. We have however the consolation that our country abounds with the richest materials, and that in no instance when engaged in action have our arms been tarnished. At Brownstown and at Queenstown the valor of veterans was displayed, and acts of the noblest heroism were performed. It is true, that the disgrace of Detroit remains to be wiped off. That is a subject on which I cannot trust my feelings, it is not fitting I should speak. But this much I will say, it was an event which no human foresight could have anticipated, and for which the administration cannot be justly censured. It was the parent of all the misfortunes we have experienced on land. But for it the Indian war would have been in a great measure prevented or terminated; the ascendancy on lake Erie acquired, and the war pushed on perhaps to Montreal. With the exception of that event, the war, even upon the land, has been attended by a series of the most brilliant exploits, which, whatever interest they may inspire on this side of the mountains, have given the greatest pleasure on the other. The expedition under the command of Governor Edwards and Colonel Russel, to lake Peoria on the Illinois, was completely successful. So was that of Captain Craig, who it is said ascended that river still higher. General Hopkins destroyed the prophet's town. We have just received intelligence of the gallant enterprise of Colonel Campbell. In short, sir, the Indian towns have been swept from the mouth to the source of the Wabash, and a hostile country has been penetrated far beyond the most daring incursions of any campaign during the former Indian war. Never was more cool deliberate bravery displayed than that by Newman's party from Georgia. And the capture of the Detroit, and the destruction of the Caledonia, (whether placed to a maritime or land account,) for judgment, skill, and courage on the part of Lieutenant Elliott, have never been surpassed.

It is alledged that the elections in England are in favor of the ministry, and that those in this country are against the war. If in such a cause (saying nothing of the impurity of their elections) the people of that country have rallied round their government, it affords a salutary lesson to the people here, who at all hazards ought to support theirs, struggling as it is to maintain our just rights. But the people here have not been false to themselves;

a great majority approve the war, as is evinced by the recent re-election of the chief magistrate. Suppose it were even true that an entire section of the Union were opposed to the war, that section being a minority, is the will of the majority to be relinquished? In that section the real strength of the opposition had been greatly exaggerated. Vermont has, by two successive expressions of her opinion, approved the declaration of war. In New-Hampshire, parties are so nearly equipoized, that out of thirty or thirty-five thousand votes, those who approved and are for supporting it, lost the election by only one thousand or one thousand five hundred. In Massachusetts alone have they obtained any considerable accession. If we come to New-York, we shall find that other and local causes have influenced her elections.

What cause, Mr. Chairman, which existed for declaring the war has been removed? We sought indemnity for the past and security for the future. The orders in council are suspended, not revoked; no compensation for spoliations. Indian hostilities, which were before secretly instigated, are now openly encouraged; and the practice of impressment unremittingly persevered in and insisted upon. Yet administration has given the strongest demonstrations of its love of peace. On the twenty-ninth June, less than ten days after the declaration of war, the secretary of state writes to Mr. Russell, authorizing him to agree to an armistice, upon two conditions only, and what are they? That the orders in council should be repealed, and the practice of impressing American seamen cease, those already impressed being released. The proposition was for nothing more than a *real* truce; that the war should in fact cease on *both* sides. Again, on the twenty-seventh of July, one month later, anticipating a possible objection to these terms, reasonable as they are, Mr. Monroe empowers Mr. Russell to stipulate in general terms for an armistice, having only an informal understanding on these points. In return, the enemy is offered a prohibition of the employment of his seamen in our service, thus removing entirely all pretext for the practice of impressment. The very proposition which the gentleman from Connecticut (Mr. Pitkin) contends ought to be made, has been made. How are these pacific advances met by the other party? Rejected as absolutely inadmissible; cavils are indulged about the inadequacy of Mr. Russell's powers, and the want of an act of Congress is intimated. And yet the constant usage of nations I believe is, where the legislation of one party is necessary to carry into effect a given stipulation, to leave it to the contracting party to provide the requisite laws. If he fail to do so, it is a breach of good faith, and becomes the subject of subsequent remonstrance by the injured party. When Mr. Russell renews the overture, in what was intended as a more agreeable form to the British government, Lord Castlereagh is not content with a simple rejection, but clothes it in the language of insult. Afterwards, in conversation with Mr. Russell, the moderation of our government is misinterpreted and

made the occasion of a sneer, that we are tired of the war. The proposition of Admiral Warren is submitted in a spirit not more pacific. He is instructed, he tells us, to propose that the government of the United States shall instantly recall their letters of marque and reprisal against British ships, together with all orders and instructions for any acts of hostility whatever against the territories of his majesty or the persons or property of his subjects. That small affair being settled, he is further authorized to arrange as to the revocation of the laws which interdict the commerce and ships of war of his majesty from the harbors and waters of the United States. This messenger of peace comes with one qualified concession in his pocket, not made to the justice of our demands, and is fully empowered to receive our homage, a contrite retraction of all our measures adopted against his master ! And in default, he does not fail to assure us, the orders in council are to be forthwith revived. Administration, still anxious to terminate the war, suppresses the indignation which such a proposal ought to have created, and in its answer concludes by informing Admiral Warren, "that if there be no objection to an accommodation of the difference relating to impressment, in the mode proposed, other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding *without the armistice*, to an immediate discussion and arrangement of an article on that subject." Thus it has left the door of negotiation unclosed, and it remains to be seen if the enemy will accept the invitation tendered to him. The honorable gentleman from North Carolina (Mr. Pearson,) supposes, that if Congress would pass a law, prohibiting the employment of British seamen in our service, upon condition of a like prohibition on their part, and repeal the act of non-importation, peace would immediately follow. Sir, I have no doubt if such a law were to pass, with all the requisite solemnities, and the repeal to take place, Lord Castlereagh would laugh at our simplicity. No, sir, administration has erred in the steps which it has taken to restore peace, but its error has been not in doing too little, but in betraying too great a solicitude for that event. An honorable peace is attainable only by an efficient war. My plan would be to call out the ample resources of the country, give them a judicious direction, prosecute the war with the utmost vigor, strike wherever we can reach the enemy, at sea or on land, and negotiate the terms of a peace at Quebec or at Halifax. We are told that England is a proud and lofty nation, which disdaining to wait for danger, meets it half way. Haughty as she is, we once triumphed over her, and, if we do not listen to the counsels of timidity and despair, we shall again prevail. In such a cause, with the aid of Providence, we must come out crowned with success ; but if we fail, let us fail like men, lash ourselves to our gallant tars, and expire together in one common struggle, fighting for **FREE TRADE AND SEAMAN'S RIGHTS.**

## ON THE EMANCIPATION OF SOUTH AMERICA.

*Speech of Mr. Clay, on his proposition to make an appropriation for the outfit, and one year's salary, for a Minister to Buenos Ayres; delivered March 24, 1818.*

The House being in committee of the whole, on the bill making appropriation for the support of government for the year 1818,

Mr. CLAY rose, under feelings of deeper regret than he had ever experienced on any former occasion, inspired, principally, by the painful consideration, that he found himself, on the proposition which he meant to submit, differing from many highly esteemed friends, in and out of this House, for whose judgment he entertained the greatest respect. A knowledge of this circumstance had induced him to pause; to subject his own convictions to the severest scrutiny; and to revolve the question over and over again. But all his reflections had conducted him to the same clear result; and, much as he valued those friends—great as his deference was for their opinions—he could not hesitate, when reduced to the distressing alternative of conforming his judgment to theirs, or pursuing the deliberate and matured dictates of his own mind. He enjoyed some consolation for the want of their co-operation, from the persuasion that, if he erred on this occasion, he erred on the side of the liberty and happiness of a large portion of the human family. Another, and, if possible, indeed, a greater source of the regret to which he referred, was the utter incompetency, which he unfeignedly felt, to do any thing like adequate justice to the great cause of American independence and freedom, whose interests he wished to promote by his humble exertions in this instance. Exhausted and worn down as he was, by the fatigue, confinement and incessant application incident to the arduous duties of the honorable station he held, during a four months' session, he should need all that kind indulgence which had been so often extended to him by the House.

He begged, in the first place, to correct misconceptions, if any existed, in regard to his opinions. He was averse from war with Spain, or with any power. He would give no just cause of war to any power—not to Spain herself. He had seen enough of war, and of its calamities, even when successful. No country upon earth had more interest than this in cultivating peace, and avoiding war, as long as it was possible honorably to avoid it. Gaining additional strength every day; our numbers doubling in periods of twenty-five years; with an income outstripping all our estimates, and so great, as, after a war in some respects disastrous, to furnish results which carry astonishment, if not

dismay, into the bosom of states jealous of our rising importance—we had every motive for the love of peace. He could not, however, approve, in all respects, of the manner in which our negotiations with Spain had been conducted. If ever a favorable time existed for the demand, on the part of an injured nation, of indemnity for past wrongs from the aggressor, such was the present time. Impoverished and exhausted at home, by the wars which have desolated the peninsula; with a foreign war, calling for infinitely more resources, in men and money, than she can possibly command, this is the auspicious period for insisting upon justice at her hands, in a firm and decided tone. Time is precisely what Spain now most wants. Yet what are we told by the President, in his message at the commencement of Congress? That Spain had procrastinated, and we acquiesced in her procrastination. And the Secretary of State, in a late communication with Mr. Onís, after ably vindicating all our rights, tells the Spanish minister, with a good deal of sang froid, that we had patiently waited thirteen years for a redress of our injuries, and that it required no great effort to wait longer! He would have abstained from thus exposing our intentions. Avoiding the use of the language of menace, he would have required, in temperate and decided terms, indemnity for all our wrongs; for the spoliations of our commerce; for the interruption of the right of depot at New-Orleans, guarantied by treaty; for the insults repeatedly offered to our flag; for the Indian hostilities, which she was bound to prevent; for belligerent use made of her ports and territories, by our enemy during the late war—and the instantaneous liberation of the free citizens of the United States now imprisoned in her jails. Contemporaneous with that demand, without waiting for her final answer, and with a view to the favorable operation on her councils in regard to our own peculiar interests, as well as in justice to the cause itself, he would recognize any established government in Spanish America. He would have left Spain to draw her own inferences from these proceedings, as to the ultimate step which this country might adopt, if she longer withheld justice from us. And if she persevered in her iniquity, after we had conducted the negotiation in the manner he had endeavored to describe, he would then take up and decide the solemn question of peace or war, with the advantage of all the light shed upon it by subsequent events, and the probable conduct of Europe.

Spain had undoubtedly given us abundant and just cause of war. But, it was not every cause of war that should lead to war. War was one of those dreadful scourges that so shakes the foundations of society; overturns or changes the character of governments; interrupts or destroys the pursuits of private happiness; brings, in short, misery and wretchedness in so many forms; and at last is, in its issue, so doubtful and hazardous, that nothing but dire necessity can justify an appeal to arms. If we were to have war with Spain, he had, however, no



hesitation in saying, that no mode of bringing it about could be less fortunate than that of seizing, at this time, upon her adjoining province. There was a time, under certain circumstances, when we might have occupied East Florida with safety; had we then taken it, our posture in the negotiation with Spain would have been totally different from what it is. But we had permitted that time, not with his consent, to pass by unimproved. If we were now to seize upon Florida, after a great change in those circumstances, and after declaring our intention to acquiesce in the procrastination desired by Spain, in what light should we be viewed by foreign powers, particularly Great Britain? We have already been accused of inordinate ambition, and of seeking to aggrandize ourselves by an extension, on all sides, of our limits. Should we not, by such an act of violence, give color to the accusation? No, Mr. Chairman, if we are to be involved in a war with Spain, let us have the credit of disinterestedness; let us put her yet more in the wrong. Let us command the respect which is never withheld from those who act a noble and generous part. He hoped to communicate to the committee the conviction which he so strongly felt, that, adopting the amendment which he intended to propose, would not hazard, in the slightest degree, the peace of the country. But, if that peace were to be endangered, he would infinitely rather it should be for our exerting the right appertaining to every state, of acknowledging the independence of another state, than for the seizure of a province which, sooner or later, we must certainly acquire.

Mr. Clay proceeded. In contemplating the great struggle in which Spanish America is now engaged, our attention is first fixed by the immensity and character of the country which Spain seeks again to subjugate. Stretching on the Pacific Ocean from about the 40th degree of north latitude to about the 55th degree of south latitude, and extending from the mouth of the Rio del Norte, (exclusive of East Florida,) around the Gulf of Mexico, and along the South Atlantic to near Cape Horn; it is about 5000 miles in length, and in some places near 3000 in breadth. Within this vast region, we behold the most sublime and interesting objects of creation; the loftiest mountains, the most majestic rivers in the world; the richest mines of the precious metals, and the choicest productions of the earth. We behold there a spectacle still more interesting and sublime—the glorious spectacle of eighteen millions of people, struggling to burst their chains and to be free. When we take a little nearer and more detailed view, we perceive that nature has, as it were, ordained that this people and this country shall ultimately constitute several different nations. Leaving the United States on the north, we come to New Spain, or the vice-royalty of Mexico on the south; passing by Guatamela, we reach the vice-royalty of New-Grenada, the late captain-generalship of Venezuela, and Guiana, lying on the east side of the Andes. Stepping over

the Brazils, we arrive at the united provinces of La Plata, and, crossing the Andes, we find Chili on their west side, and, further north, the vice-royalty of Lima, or Peru. Each of these several parts is sufficient in itself, in point of limits, to constitute a powerful state, and, in point of population, that which has the smallest contains enough to make it respectable. Throughout all the extent of that great portion of the world, which he had attempted thus hastily to describe, the spirit of revolt against the dominion of Spain had manifested itself. The revolution had been attended with various degrees of success in the several parts of Spanish America. In some, it had been already crowned, as he would endeavor to show, with complete success, and in all he was persuaded that independence had struck such deep root as that the power of Spain could never eradicate it. What were the causes of this great movement?

Three hundred years ago, upon the ruins of the thrones of Montezuma and the Incas of Peru, Spain erected the most stupendous system of colonial despotism that the world has ever seen—the most vigorous, the most exclusive. The great principle and object of this system, has been to render one of the largest portions of the world exclusively subservient, in all its faculties, to the interests of an inconsiderable spot in Europe. To effectuate this aim of her policy, she locked up Spanish America from all the rest of the world, and prohibited, under the severest penalties, any foreigner from entering any part of it. To keep the natives themselves ignorant of each other, and of the strength and resources of the several parts of her American possessions, she next prohibited the inhabitants of one vice-royalty or government from visiting those of another; so that the inhabitants of Mexico, for example, were not allowed to enter the vice-royalty of New Granada. The agriculture of those vast regions was so regulated and restrained as to prevent all collision with the interests of the agriculture of the peninsula. Where nature, by the character and composition of the soil, had commanded, the abominable system of Spain has forbidden, the growth of certain articles. Thus the olive and the vine, to which Spanish America is so well adapted, are prohibited, wherever their culture could interfere with the olive and the vine of the peninsula. The commerce of the country, in the direction and objects of the exports and imports, is also subjected to the narrow and selfish views of Spain—and fettered by the odious spirit of monopoly existing in Cadiz. She has sought, by scattering discord among the several casts of her American population, and by a debasing course of education, to perpetuate her oppression. Whatever concerns public law, or the science of government, all writers upon political economy, or that tend to give vigor and freedom and expansion to the intellect, are prohibited. Gentlemen would be astonished by the long list of distinguished authors, whom she proscribes, to be found in Depon's



and other works. A main feature in her policy, is that which constantly elevates the European and depresses the American character. Out of upwards of seven hundred and fifty viceroys and captains general, whom she has appointed since the conquest of America, about eighteen only have been from the body of the American population. On all occasions, she seeks to raise and promote her European subjects, and to degrade and humiliate the creoles. Wherever in America her sway extends, every thing seems to pine and wither beneath its baneful influence. The richest regions of the earth ; man, his happiness and his education, all the fine faculties of his soul, are regulated and modified, and moulded to suit the execrable purposes of an inexorable despotism.

Such is a brief and imperfect picture of the state of things in Spanish America in 1808, when the famous transactions of Bayonne occurred. The king of Spain and the Indies, (for Spanish America had always constituted an integral part of the Spanish empire) abdicated his throne and became a voluntary captive. Even at this day, one does not know whether he should most condemn the baseness and perfidy of the one party, or despise the meanness and imbecility of the other. If the obligation of obedience and allegiance existed on the part of the colonies to the king of Spain, it was founded on the duty of protection which he owed them. By disqualifying himself from the performance of this duty, they became released from that obligation. The monarchy was dissolved; and each integral part had a right to seek its own happiness, by the institution of any new government adapted to its wants. Joseph Bonaparte, the successor *de facto* of Ferdinand, recognized this right on the part of the colonies, and recommended them to establish their independence. Thus, upon the ground of strict right ; upon the footing of a mere legal question, governed by forensic rules, the colonies, being absolved by the acts of the parent country from the duty of subjection to it, had an indisputable right to set up for themselves. But Mr. Clay took a broader and a bolder position. He maintained, that an oppressed people were authorized, whenever they could, to rise and break their fetters. This was the great principle of the English revolution. It was the great principle of our own. Vattel, if authority were wanting, expressly supports this right. We must pass sentence of condemnation upon the founders of our liberty—say that they were rebels—traitors, and that we are at this moment legislating without competent powers, before we could condemn the cause of Spanish America. Our revolution was mainly directed against the mere theory of tyranny. We had suffered comparatively but little ; we had, in some respects, been kindly treated ; but our intrepid and intelligent fathers saw, in the usurpation of the power to levy an inconsiderable tax, the long train of oppressive acts that were to follow. They rose ; they breasted the storm ; they conquered our freedom. Spanish America for centuries has been doomed to the practical effects of

an odious tyranny. If we were justified, she is more than justified.

Mr. Clay said he was no propagandist. He would not seek to force upon other nations our principles and our liberty, if they did not want them. He would not disturb the repose even of a detestable despotism. But, if an abused and oppressed people willed their freedom; if they sought to establish it; if, in truth, they had established it, we had a right, as a sovereign power, to notice the fact, and to act as circumstances and our interest required. He would say, in the language of the venerated father of his country: "Born in a land of liberty, my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banners of freedom." For his own part, Mr. Clay said, that whenever he thought of Spanish America, the image irresistibly forced itself upon his mind of an elder brother, whose education had been neglected, whose person had been abused and maltreated, and who had been disinherited by the unkindness of an unnatural parent. And, when he contemplated the glorious struggle which that country was now making, he thought he beheld that brother rising, by the power and energy of his fine native genius, to the manly rank which nature, and nature's God, intended for him.

If Spanish America were entitled to success from the justness of her cause, we had no less reason to wish that success from the horrible character which the royal arms have given to the war. More atrocities than those which had been perpetrated during its existence, were not to be found even in the annals of Spain herself. And history, reserving some of her blackest pages for the name of Morillo, is prepared to place him along side of his great prototype, the infamous desolater of the Netherlands. He who has looked into the history of the conduct of this war, is constantly shocked at the revolting scenes which it portrays; at the refusal, on the part of the commanders of the royal forces to treat, on any terms, with the other side; at the denial of quarters; at the butchery, in cold blood, of prisoners; at the violation of flags, in some cases, after being received with religious ceremonies; at the instigation of slaves to rise against their owners; and at acts of wanton and useless barbarity. Neither the weakness of the other sex, nor the imbecility of old age, nor the innocence of infants, nor the reverence due to the sacerdotal character, can stay the arm of royal vengeance. On this subject he begged leave to trouble the committee with reading a few passages from a most authentic document, the manifesto of the Congress of the united provinces of Rio de la Plata, published in October last. This was a paper of the highest authority; it was an appeal to the whole world; it asserted facts of notoriety, in the face of the whole world. It was not to be credited that the Congress would come forward with a statement which was not true, when the means, if it were false, of exposing their fabrica-

tions, must be so abundant, and so easy to command. It was a document, in short, that stood upon the same footing of authority with our own papers, promulgated during the revolution by our Congress. He would add, that many of the facts which it affirmed, were corroborated by most respectable historical testimony, which was in his own possession.\*

\* The following are the passages read by Mr. C.

"Memory shudders at the recital of the horrors that were then committed by Goyeneche, in Cochabamba. Would to heaven it were possible to blot from remembrance the name of that ungrateful and blood-thirsty American; who, on the day of his entry, ordered the virtuous Governor and intendant, Antesana, to be shot: who, beholding from the balcony of his house that infamous murder, cried out with a ferocious voice to the soldiers, that they must not fire at the head, because he wanted it to be affixed to a pole; and who, after the head was taken off, ordered the cold corpse to be dragged through the streets; and, by a barbarous decree, placed the lives and fortunes of the citizens at the mercy of his unbridled soldiery, leaving them to exercise their licentious and brutal sway during several days! But those blind and cruelly capricious men, (the Spaniards,) rejected the mediation of England, and despatched rigorous orders to all the generals, to aggravate the war, and to punish us with more severity. The scaffolds were every where multiplied, and invention was racked to devise means for spreading murder, distress and consternation.

"Thenceforth they made all possible efforts to spread division amongst us, to incite us to mutual extermination; they have slandered us with the most atrocious calumnies, accusing us of plotting the destruction of our holy religion, the abolition of all morality, and of introducing licentiousness of manners. They wage a religious war against us, contriving a thousand artifices to disturb and alarm the consciences of the people, making the Spanish bishops issue decrees of ecclesiastical condemnation, public excommunications, and disseminating, through the medium of some ignorant confessor, fanatical doctrines in the tribunal of penitence. By means of these religious discords they have divided families against themselves; they have caused disaffection between parents and children, they have dissolved the tender ties which unite man and wife; they have spread rancor and implacable hatred between brothers, most endeared, and they have presumed to throw all nature into discord.

"They have adopted the system of murdering men indiscriminately, to diminish our numbers; and, on their entry into towns, they have swept off all, even the market people, leading them to the open squares, and there shooting them one by one. The cities of Chuquisaca and Cochabamba have more than once been the theatres of these horrid slaughters.

"They have intermixed with their troops soldiers of ours whom they had taken prisoners, carrying away the officers in chains, to garrisons where it is impossible to preserve health for a year—they have left others to die in their prisons of hunger and misery, and others they have forced to hard labor on the public works. They have exultingly put to death our bearers of flags of truce, and have been guilty of the blackest atrocities to our chiefs, after they had surrendered; as well as to other principal characters, in disregard of the humanity with which we treated prisoners; as a proof of it, witness the deputy Mutes of Potosi, the captain general Pumacagua, General Augulo, and his brother commandant Munecas and other partizan chiefs, who were shot in cold blood, after having been prisoners for several days.

"They took a brutal pleasure in cropping the ears of the natives of the town of Ville-grande, and sending a basket full of them as presents to the head quarters. They afterwards burnt that town, and set fire to thirty other populous towns of Peru, and worse than the worst of savages, shutting the inhabitants up in the houses before setting them on fire, that they might be burnt alive.

"They have not only been cruel and unsparing in their mode of murder, but they have been void of all morality and public decency, causing aged ecclesiastics and women to be lashed to a gun, and publicly flogged, with the abomination of first having them stripped, and their nakedness exposed to shame, in the presence of their troops.

"They established an inquisitorial system in all these punishments; they have seized on peaceable inhabitants, and transported them across the sea, to be judged for suspected crimes, and they have put a great number of citizens to death every where, without accusation or the form of a trial.

"They have invented a crime of unexampled horror, in poisoning our water and provisions, when they were conquered by General Pineto at La Paz, and in return for the kindness with which he treated them, after they had surrendered at discretion, they had the barbarity to blow up the head-quarters, under which they had constructed a mine, and prepared a train beforehand.

In the establishment of the Independence of Spanish America, the United States had the deepest interest. He had no hesitation in asserting his firm belief, that there was no question in the foreign policy of this country, which had ever arisen, or which he could conceive as ever occurring, in the decision of which we had so much at stake. This interest concerned our politics, our commerce, our navigation. There could not be a doubt that Spanish America, once independent, whatever might be the form of the governments established in its several parts, these governments would be animated by an American feeling, and guided by an American policy. They would obey the laws of the system of the New World, of which they would compose a part, in contradistinction to that of Europe. Without the influence of that vortex in Europe the balance of power between its several parts, the preservation of which had so often drenched Europe in blood, America is sufficiently remote to contemplate the new wars which are to afflict that quarter of the globe, as a calm, if not a cold and indifferent spectator. In relation to those wars, the several parts of America will generally stand neutral. And as, during the period when they rage, it will be important that a liberal system of neutrality should be adopted and observed, all America will be interested in maintaining and enforcing such a system. The independence then of Spanish America was the interest of primary consideration. Next to that, and highly important in itself, was the consideration of the nature of their governments. That was a question, however, for themselves. They would, no doubt, adopt those kinds of governments which were best suited to their condition, best calculated for their happiness. Anxious as he was that they should be free governments, we had no right to prescribe for them. They were, and ought to be, the sole judges for themselves. He was strongly inclined to believe that they would in most, if not all parts of their country, establish free governments. We were

“He has branded us with the stigma of rebels, the moment he returned to Madrid; he refused to listen to our complaints, or to receive our supplications; and as an act of extreme favor, he offered us a pardon. He confirmed the viceroys, governors and generals whom he found actually glutted with carnage. He declared us guilty of a high misdemeanor for having dared to frame a constitution for our own government, free from the control of a deified, absolute and tyrannical power, under which we had groaned three centuries; a measure that could be offensive only to a prince, an enemy to justice and beneficence, and consequently unworthy to rule over us.

“He then undertook, with the aid of his ministers, to equip large military armaments, to be directed against us. He caused numerous armies to be sent out, to consummate the work of devastation, fire and plunder.

“He has sent his generals, with certain decrees of pardon, which they publish to deceive the ignorant, and induce them to facilitate their entrance into towns, whilst at the same time he has given them other secret instructions, authorizing them, as soon as they should get possession of a place, to hang, burn, confiscate and sack; to encourage private assassinations—and to commit every species of injury in their power, against the deluded beings who had confided in his pretended pardon. It is in the name of Ferdinand of Bourbon that the heads of patriot officers, prisoners, are fixed up in the highways, that they beat and stoned to death a commandant of light troops, and that, after having killed Colonel Camugo, in the same manner by the hands of the indecent Centeno, they cut off his head and sent it as a present to General Pazuela, telling him it was a miracle of the virgin of the Carmelites.”

their great example. Of us they constantly spoke as of brothers, having a similar origin. They adopted our principles, copied our institutions, and, in many instances, employed the very language and sentiments of our revolutionary papers. [Here Mr. Clay read a passage from the manifesto before cited.\*] But it is sometimes said that they are too ignorant and too superstitious to admit of the existence of free government. This charge of ignorance is often urged by persons themselves actually ignorant of the real condition of that people. He denied the alleged fact of ignorance; he denied the inference from that fact, if it were true, that they wanted capacity for free government; and he refused his assent to the further conclusion, if the fact were true, and the inference just, that we were to be indifferent to their fate. All the writers of the most established authority, Depons, Humboldt, and others, concur in assigning to the people of Spanish America, great quickness, genius, and particular aptitude for the acquisition of the exact sciences; and others which they have been allowed to cultivate. In astronomy, geology, mineralogy, chemistry, botany, &c., they are allowed to make distinguished proficiency. They justly boast of their Abzate, Velasques, and Gama, and other illustrious contributors to science. They have nine universities, and in the city of Mexico, it is affirmed by Humboldt, that there are more solid scientific establishments than in any city even of North America. He would refer to the message of the supreme director of La Plata, which he would hereafter have occasion to use for another purpose, as a model of fine composition of a state paper, challenging a comparison with any, the most celebrated that ever issued from the pens of Jefferson or Madison. Gentlemen would egregiously err if they formed their opinions of the present moral condition of Spanish America, from what it was under the debasing system of Spain. The eight years' revolution in which it has been engaged, has already produced a powerful effect.

Education had been attended to, and genius developed. [Here Mr. C. read a passage from the Colonial Journal, published last summer in Great Britain, where a disposition to exaggerate on that side of the question, could hardly be supposed to exist.†] The fact was not therefore true, that the imputed ignorance existed; but, if it did, he repeated that he disputed the inference.

\* "Having then been thus impelled by the Spaniards and their king, we have calculated all the consequences, and have constituted ourselves independent, prepared to exercise the right of nature to defend ourselves against the ravages of tyranny, at the risk of our honor, our lives and fortune. We have sworn to the only king we acknowledge, the supreme Judge of the world, that we will not abandon the cause of justice; that we will not suffer the country which he has given us to be buried in ruins, and inundated with blood, by the hands of the executioner," &c.

† "As soon as the project of revolution arose on the shores of La Plata, genius and talent exhibited their influence; the capacity of the people became manifest, and the means of acquiring knowledge were soon made the favorite pursuit of the youth. As far as the wants or the inevitable interruption of affairs have allowed, every thing has been done to disseminate useful information. The liberty of the press has indeed met with some occasional checks; but in Buenos Ayres alone as many periodical works weekly issue from the press as in Spain and Portugal put together."

It was the doctrine of thrones, that man was too ignorant to govern himself. Their partisans assert his incapacity in reference to all nations; if they cannot command universal assent to the proposition, it is then demanded as to particular nations; and our pride and our presumption too often make converts of us. Mr. Clay contended that it was to arraign the dispositions of Providence himself, to suppose that he had created beings incapable of governing themselves, and to be trampled on by kings. He contended that self government was the natural government of man, and he referred to the aborigines of our own land. If he were to speculate in hypotheses unfavorable to human liberty, his should be founded rather upon the vices, refinements, or density of population. Crowded together in compact masses, even if they were philosophers, the contagion of the passions is communicated and caught, and the effect too often, he admitted, was the overthrow of liberty. Dispersed over such an immense space as that on which the people of Spanish America were spread, their physical, and he believed also their moral condition, both favored their liberty.

With regard to their superstition, Mr. Clay said, they worshipped the same God with us. Their prayers were offered up in their temples to the same Redeemer, whose intercession we expected to save us. Nor was there any thing in the Catholic religion unfavorable to freedom. All religions united with government were more or less inimical to liberty. All separated from government were compatible with liberty. If the people of Spanish America had not already gone as far, in religious toleration as we had, the difference in their condition from ours should not be forgotten. Every thing was progressive; and, in time he hoped to see them imitating, in this respect, our example. But, grant that the people of Spanish America are ignorant and incompetent for free government, to whom is that ignorance to be ascribed? Is it not to the execrable system of Spain, which she seeks again to establish and to perpetuate? So far from chilling our hearts, it ought to increase our solicitude for our unfortunate brethren. It ought to animate us to desire the redemption of the minds and the bodies of unborn millions from the brutifying effects of a system whose tendency is to stifle the faculties of the soul, and to degrade man to the level of beasts. He would invoke the spirits of our departed fathers. Was it for yourselves only that you nobly fought? No, no! It was the chains that were forging for your posterity that made you fly to arms, and scattering the elements of these chains to the winds, you transmitted to us the rich inheritance of liberty.

The exports of Spanish America (exclusive of those of the islands) are estimated in the valuable little work of M. Torres, deserving to be better known, at about eighty-one millions of dollars. Of these more than three-fourths consist of the precious metals. The residue are cocoa, coffee, cochineal, sugar, and some other articles. No nation ever offered richer commodities



in exchange. It was of no material consequence that we produced but little that Spanish America wanted. Commerce, as it actually exists, in the hands of maritime states, was no longer confined to a mere barter, between any two states, of their respective productions. It rendered tributary to its interests the commodities of all quarters of the world. So that a rich American cargo, or the contents of an American commercial warehouse, presented you with whatever was rare or valuable in every part of the globe. Commerce was not to be judged by its results in transactions with one nation only. Unfavorable balances existing with one state are made up by contrary balances with other states. And its true value should be tested by the totality of its operations. Our greatest trade—that with Great Britain, judged by the amount of what we sold for her consumption, and what we bought of her for ours, would be pronounced ruinous. But the unfavorable balance was covered by the profits of trade with other nations. We may safely trust to the daring enterprize of our merchants. The precious metals are in South America, and they will command the articles wanted in South America, which will purchase them. Our navigation will be benefitted by the transportation, and our country will realize the mercantile profits. Already the item in our exports of American manufactures is respectable. They go chiefly to the West Indies and to Spanish America. This item is constantly augmenting. And he would again, as he had on another occasion, ask gentlemen to elevate themselves to the actual importance and greatness of our republic; to reflect, like true American statesmen, that we were not legislating for the present day only; and to contemplate this country in its march to true greatness, when millions and millions will be added to our population, and when the increased productive industry will furnish an infinite variety of fabrics for foreign consumption, in order to supply our own wants. The distribution of the precious metals has hitherto been principally made through the circuitous channel of Cadiz. No one can foresee all the effects which will result from a direct distribution of them from the mines which produce them. One of these effects will probably be to give us the entire command of the Indian trade. The advantage we have on the map of the world over Europe, in that respect, is prodigious. Again, if England, persisting in her colonial monopoly, continued to occlude her ports in the West Indies to us, and we should, as he contended we ought, meet her system by a countervailing measure, Venezuela, New Grenada, and other parts of Spanish America, would afford us all we get from the British West Indies. He confessed that he despaired, for the present, of adopting that salutary measure. It was proposed at the last session, and postponed. It was during the present session again proposed, and, he feared, would be again postponed. He saw, and he owned it with infinite regret, a tone and a feeling in the councils of the country infinitely below that which belonged to the

country. It was perhaps the moral consequence of the exertions of the late war. We are alarmed at dangers, we know not what; by spectres conjured up by our own vivid imaginations.

The West India bill is brought up. We shrug our shoulders, talk of restrictions, non-intercourse, embargo, commercial warfare, make long faces, and—postpone the bill. The time will however come, must come, when this country will not submit to a commerce with the British colonies upon the terms which England alone prescribes. And, he repeated, that, when it arrived, Spanish America would afford us an ample substitute. Then, as to our navigation; gentlemen should recollect that, if reasoning from past experience were safe for the future, our great commercial rival will be in war a greater number of years than she will be in peace. Whenever she shall be at war, and we are in peace, our navigation, being free from the risks and insurance incident to war, we shall engross almost the whole transportation of the Spanish American commerce. For he did not believe that that country would ever have a considerable marine. Mexico, the most populous part of it, had but two ports, La Vera Cruz and Acapulca, and neither of them very good. Spanish America had not the elements to construct a marine. It wanted, and must always want, hardy seamen. He did not believe that, in the present improved state of navigation, any nations so far south would ever make a figure as maritime powers. If Carthage and Rome, in ancient times, and some other states of a later period, occasionally made great exertions on the water, it must be recollected that they were principally on a small theatre, and in a totally different state of the art of navigation, or when there was no competition from northern states.

He was aware that, in opposition to the interest which he had been endeavoring to manifest, that this country had in the independence of Spanish America, it was contended that we should find that country a great rival in agricultural productions.—There was something so narrow and selfish and grovelling in this argument, if founded in fact, something so unworthy the magnanimity of a great and a generous people, that he confessed he had scarcely patience to notice it. But it was not true to any extent. Of the eighty odd millions of exports, only about one million and a half consisted of an article which might come into competition with us, and that was cotton. The tobacco which Spain derived from her colonies was chiefly produced in her islands. Bread stuffs could no where be raised and brought to market in any amount materially affecting us. The table lands of Mexico, owing to their elevation, were, it was true, well adapted to the culture of grain; but the expense and difficulty of getting it to the gulf of Mexico, and the action of the intense heat at La Vera Cruz, the only port of exportation, must always prevent Mexico from being an alarming competitor. Spanish America was capable of producing articles so much more valua-



ble than those which we raised, that it was not probable they would abandon a more profitable for a less advantageous culture, to come into competition with us. The West India islands were well adapted to the raising of cotton; and yet the more valuable culture of coffee and sugar was constantly preferred. Again, Providence had so ordered it, that, with regard to countries producing articles apparently similar, there was some peculiarity, resulting from climate, or from some other cause, that gave to each an appropriate place in the general wants and consumption of mankind. The southern part of the continent, La Plata and Chili, was too remote to rival us.

The immense country, watered by the Mississippi and its branches, had a peculiar interest, which he trusted he should be excused for noticing. Having but the single vent of New-Orleans, for all the surplus produce of their industry, it was quite evident that they would have a greater security for enjoying the advantages of that outlet, if the independence of Mexico upon any European power were effected. Such a power, owning at the same time Cuba, the great key of the gulf of Mexico, and all the shores of that gulf, with the exception of the portion between the Perdido and the Rio del Norte, must have a powerful command over our interests. Spain, it was true, was not a dangerous neighbor at present, but, in the vicissitudes of states, her power might be again resuscitated.

Mr. C. continued. Having shown that the cause of the patriots was just, and that we had a great interest in its successful issue, he would next inquire what course of policy it became us to adopt. He had already declared that to be one of strict and impartial neutrality. It was not necessary for their interests, it was not expedient for our own, that we should take part in the war. All they demanded of us was a just neutrality. It was compatible with this pacific policy—it was required by it, that we should recognize any established government, if there were any established government in Spanish America. Recognition alone, without aid, was no just cause of war. With aid, it was, not because of the recognition, but because of the aid, as aid, without recognition, was cause of war. The truth of these propositions he would maintain upon principle, by the practice of other states, and by the usage of our own. There was no common tribunal, among nations, to pronounce upon the fact of the sovereignty of a new state. Each power does and must judge for itself. It was an attribute of sovereignty so to judge. A nation, in exerting this incontestible right—in pronouncing upon the independence, in fact, of a new state, takes no part in the war. It gives neither men, nor ships, nor money. It merely pronounces that, in so far as it may be necessary to institute any relations, or to support any intercourse, with the new power, that power is capable of maintaining those relations, and authorizing that intercourse. Martens and other publicists lay down these principles.

When the United Provinces formerly severed themselves from Spain, it was about eighty years before their independence was finally recognized by Spain. Before that recognition, the United Provinces had been received by all the rest of Europe into the family of nations. It is true that a war broke out between Philip and Elizabeth, but it proceeded from the aid which she determined to give, and did give, to Holland. In no instance, he believed, could it be shown, from authentic history, that Spain made war upon any power on the sole ground that such power had acknowledged the independence of the United Provinces.

In the case of our own revolution, it was not until after France had given us aid, and had determined to enter into a treaty of alliance with us—a treaty by which she guaranteed our independence—that England declared war. Holland also was charged by England with favoring our cause, and deviating from the line of strict neutrality. And, when it was perceived that she was moreover about to enter into a treaty with us, England declared war. Even if it were shown that a proud, haughty and powerful nation, like England, had made war upon other provinces on the ground of a mere recognition, the single example could not alter the public law, or shake the strength of a clear principle.

But what had been our uniform practice? We had constantly proceeded on the principle, that the government *de facto* was that we could alone notice. Whatever form of government any society of people adopts; whoever they acknowledge as their sovereign, we consider that government or that sovereign as the one to be acknowledged by us. We have invariably abstained from assuming a right to decide in favor of the sovereign *de jure*, and against the sovereign *de facto*. That is a question for the nation in which it arises to determine. And so far as we are concerned, the sovereign *de facto* is the sovereign *de jure*. Our own revolution stands on the basis of the right of a people to change their rulers. He did not maintain that every immature revolution—every usurper, before his power was consolidated, was to be acknowledged by us; but that as soon as stability and order were maintained, no matter by whom, we always had considered, and ought to consider the actual as the true government. General Washington, Mr. Jefferson, Mr. Madison, had all, whilst they were respectively presidents, acted on these principles.

In the case of the French republic, Gen. Washington did not wait until some of the crowned heads of Europe should set him the example of acknowledging it, but accredited a minister at once. And it is remarkable that he was received before the government of the republic was considered as established. It will be found, in Marshall's life of Washington, that when it was understood that a minister from the French republic was about to present himself, President Washington submitted a number of questions to his cabinet for their consideration and advice, one of which was, whether, upon the reception of the minister, he should be notified that America would suspend the execution of

the treaties between the two countries until France had an established government. Gen. Washington did not stop to inquire whether the descendants of St. Louis were to be considered as the legitimate sovereigns of France, and if the revolution was to be regarded as unauthorized resistance to their sway. He saw France, in fact, under the government of those who had subverted the throne of the Bourbons, and he acknowledged the actual government. During Mr. Jefferson's and Mr. Madison's administrations, when the Cortes of Spain and Joseph Bonaparte respectively contended for the crown, those enlightened statesmen said, we will receive a minister from neither party; settle the question between yourselves, and we will acknowledge the party that prevails. We have nothing to do with your feuds; whoever all Spain acknowledges as her sovereign, is the only sovereign with whom we can maintain any relations. Mr. Jefferson, it is understood, considered whether he should not receive a minister from both parties, and finally decided against it, because of the inconveniences to this country, which might result from the double representation of another power. As soon as the French armies were expelled from the Peninsula, Mr. Madison, still acting on the principle of the government *de facto*, received the present minister from Spain. During all the phases of the French government, republic, directory, consuls, consul for life, emperor, king, emperor again, king, our government has uniformly received the minister.

If, then, there be an established government in Spanish America, deserving to rank among the nations, we were morally and politically bound to acknowledge it, unless we renounced all the principles which ought to guide, and which hitherto had guided, our councils. Mr. C. then undertook to show, that the united provinces of the Rio de la Plata possessed such a government. Its limits, he said, extending from the south Atlantic ocean to the Pacific, embraced a territory equal to that of the United States, certainly equal to it, exclusive of Louisiana. Its population was about three millions, more than equal to ours at the commencement of our revolution. That population was a hardy, enterprising and gallant population. The establishments of Monte Video and Buenos Ayres had, during different periods of their history, been attacked by the French, Dutch, Danes, Portuguese, English and Spanish; and such was the martial character of the people, that in every instance the attack had been repulsed. In 1807, General Whitlocke, commanding a powerful English army, was admitted, under the guise of a friend, into Buenos Ayres, and as soon as he was supposed to have demonstrated inimical designs, he was driven by the native and unaided force of Buenos Ayres from the country. Buenos Ayres had, during now nearly eight years, been in point of fact in the enjoyment of self-government. The capital, containing more than sixty thousand inhabitants, has never been once lost. As early as 1811, the regency of Old Spain made war upon Buenos Ayres, and the consequence sub-

sequently was, the capture of a Spanish army in Monte Video, equal to that of Burgoyne. This government has now, in excellent discipline, three well appointed armies, with the most abundant material of war; the army of Chili—the army of Peru, and the army of Buenos Ayres. The first under San Martin, has conquered Chili; the second is penetrating in a north-western direction from Buenos Ayres, into the vice-royalty of Peru; and according to the last accounts, had reduced the ancient seat of empire of the Incas. The third remains at Buenos Ayres to oppose any force which Spain may send against it. To show the condition of the country in July last, Mr. C. again called the attention of the committee to the message of the supreme director, delivered to the Congress of the United Provinces. It was a paper of the same authentic character with the speech of the king of England on opening his parliament, or the message of the President of the United States, at the commencement of Congress.\* There was a spirit of bold confidence running

\* The following are the passages read by Mr. Clay.

"The army of this capital was organized at the same time with those of the Andes and of the interior; the regular force has been nearly doubled: the militia has made great progress in military discipline; our slave population has been formed into battalions, and taught the military art as far as is consistent with their condition. The capital is under no apprehension that an army of ten thousand men can shake its liberties, and should the Peninsularians send against us thrice that number, ample provision has been made to receive them.

"Our navy has been fostered in all its branches. The scarcity of means under which we labored until now, has not prevented us from undertaking very considerable operations, with respect to the national vessels; all of them have been repaired, and others have been purchased and armed, for the defence of our coasts and rivers; provisions have been made, should necessity require it, for arming many more, so that the enemy will not find himself secure from our reprisals even upon the ocean.

"Our military force, at every point which it occupies, seems to be animated with the same spirit; its tactics are uniform, and have undergone a rapid improvement from the science of experience, which it has borrowed from warlike nations.

"Our arsenals have been replenished with arms, and a sufficient store of cannon and munitions of war have been provided to maintain the contest for many years; and this, after having supplied articles of every description to those districts, which have not as yet come into the union, but whose connexion with us has been only intercepted by reason of our past misfortunes.

"Our legions daily receive considerable augmentations from new levies; all our preparations have been made, as though we were about to enter upon the contest anew. Until now, the vastness of our resources was unknown to us, and our enemies may contemplate, with deep mortification and despair, the present flourishing state of these provinces after so many devastations.

"Whilst thus occupied in providing for our safety within, and preparing for assaults from without, other objects of solid interest have not been neglected, and which hitherto were thought to oppose insurmountable obstacles.

"Our system of finance had hitherto been on a footing entirely inadequate to the unfailling supply of our wants, and still more to the liquidation of the immense debt which had been contracted in former years. An unremitting application to this object has enabled me to create the means of satisfying the creditors of the state, who had already abandoned their debts as lost, as well as to devise a fixed mode, by which the taxes may be made to fall equally and indirectly on the whole mass of our population; it is not the least merit of this operation, that it has been effected in despite of the writings by which it was attacked, and which are but little creditable to the intelligence and good intentions of their authors. At no other period have the public exigences been so punctually supplied, nor have more important works been undertaken.

"The people, moreover, have been relieved from many burdens, which being partial, or confined to particular classes, had occasioned vexation and disgust. Other vex-

through this fine state paper, which nothing but conscious strength could communicate. Their armies, their magazines, their finances, were on the most solid and respectable footing. And, amidst all the cares of war, and those incident to the consolidation of their new institutions, leisure was found to promote the interests of science, and the education of the rising generation. It was true, that the first part of the message portrayed scenes of difficulty and commotion, the usual attendants upon revolution. The very avowal of their troubles manifested, however, that they were subdued. And what state, passing through the agitations of a great revolution, was free from them? We had our tories, our intrigues, our factions. More than once were the affections of the country, and the confidence of our councils, attempted to be shaken in the great father of our liberties. Not a Spanish bayonet remains within the immense extent of the territories of La Plata to contest the authority of the actual government. It is free, it is independent—it is sovereign. It manages the interests of the society that submits to its sway. It is capable of maintaining the relations between that society and other nations.

Are we not bound, then, upon our own principles, to acknowledge this new republic? If we do not, who will? Are we to expect that kings will set us the example of acknowledging the only republic on earth, except our own? We receive, promptly receive, a minister from whatever king sends us one. From the great powers, and the little powers, we accredit ministers. We do more: we hasten to reciprocate the compliment; and anxious to manifest our gratitude for royal civility, we send for a minister (as in the case of Sweden and the Netherlands) of the lowest grade, one of the highest rank recognized by our laws.

ations scarcely less grievous, will by degrees be also suppressed, avoiding as far as possible a recurrence to loans, which have drawn after them the most fatal consequences to states. Should we, however, be compelled to resort to such expedients, the lenders will not see themselves in danger of losing their advances.

"Many undertakings have been set on foot for the advancement of the general prosperity. Such has been the re-establishing of the college, heretofore named San Carlos, but hereafter to be called the Union of the South, as a point designated for the dissemination of learning to the youth of every part of the state, on the most extensive scale, for the attainment of which object the government is at the present moment engaged in putting in practice every possible diligence. It will not be long before these nurseries will flourish, in which the liberal and exact sciences will be cultivated, in which the hearts of those young men will be formed, who are destined at some future day to add new splendor to our country.

"Such has been the establishment of a military depot on the frontier, with its spacious magazine, a necessary measure to guard us from future dangers, a work which does more honor to the prudent foresight of our country, as it was undertaken in the moment of its prosperous fortunes, a measure which must give more occasion for reflection to our enemies, than they can impose upon us by their boastings.

"Fellow-citizens, we owe our unhappy reverses and calamities to the depraving system of our ancient metropolis, which in condemning us to the obscurity and opprobrium of the most degraded destiny, has sown with thorns the path that conducts us to liberty. Tell that metropolis that even she may glory in your works! Already have you cleared all the rocks, escaped every danger, and conducted these provinces to the flourishing condition in which we now behold them. Let the enemies of your name contemplate with despair the energies of your virtues, and let the nations acknowledge that you already appertain to their illustrious rank. Let us felicitate ourselves on the blessings we have already obtained, and let us show to the world that we have learned to profit by the experience of our past misfortunes."

We were the natural head of the American family. He would not intermeddle in the affairs of Europe. We wisely kept aloof from their broils. He would not even intermeddle in those of other parts of America, farther than to exert the incontestible rights appertaining to us as a free, sovereign, and independent power; and, he contended, that the accrediting of a minister from the new republic was such a right. We were bound to receive their minister, if we meant to be really neutral. If the royal belligerent were represented and heard at our government, the republican belligerent ought also to be heard. Otherwise, one party would be in the condition of the poor patriots who were tried *ex parte* the other day in the Supreme Court, without counsel, without friends. Give Mr. Onís his *conge*, or receive the republican minister. Unless you do so, your neutrality is nominal.

Mr. C. next proceeded to inquire into the consequences of a recognition of the new republic. Will it involve us in war with Spain? He had shown, he trusted, successfully shown, that there was no just cause of war to Spain. Being no cause of war, we had no right to expect that war would ensue. If Spain, without cause, would make war, she may make it whether we do or do not acknowledge the republic. But she would not, because she could not, make war against us. He called the attention of the committee to a report of the minister of the Hacienda to the king of Spain, presented about eight months ago. A more beggarly account of empty boxes, Mr. C. said, was never rendered. The picture of Mr. Dallas, sketched in his celebrated report during the last war, may be contemplated without emotion, after surveying that of Mr. Gary. The expenses of the current year required eight hundred and thirty millions two hundred and sixty-seven thousand eight hundred and twenty-nine of reals, and the deficit of the income is represented as two hundred and thirty-three millions one hundred and forty thousand nine hundred and thirty-two of reals. This, besides an immense mass of unliquidated debt, which the minister acknowledges the utter inability of the country to pay, although bound in honor to redeem it. He states that the vassals of the king are totally unable to submit to any new taxes, and the country is without credit, so as to render anticipation by loans wholly impracticable. Mr. Gary appears to be a virtuous man, who exhibits frankly the naked truth; and yet such a minister acknowledges, that the decorum due to one single family, that of the monarch, does not admit, in this critical condition of his country, any reduction of the enormous sum of upwards of fifty-six millions of reals, set apart to defray the expenses of that family! He states that a foreign war would be the greatest of all calamities, and one which, being unable to provide for it, they ought to employ every possible means to avert. He proposed some inconsiderable contribution from the clergy, and the whole body was instantly in an uproar. Indeed, Mr. C. had no doubt, that, surrounded as Mr. Gary was, by corruption, by intrigue, and



folly, and imbecility, he would be compelled to retire, if he had not already been dismissed, from a post for which he had too much integrity. It had been now about four years since the restoration of Ferdinand; and if, during that period, the whole energies of the monarchy had been directed unsuccessfully against the weakest and most vulnerable of all the American possessions, Venezuela, how was it possible for Spain to encounter the difficulties of a new war with this country? Morillo had been sent out with one of the finest armies that had ever left the shores of Europe—consisting of ten thousand men, chosen from all the veterans who had fought in the Peninsula. It had subsequently been reinforced with about three thousand more. And yet, during the last summer, it was reduced, by the sword and the climate, to about four thousand effective men. And Venezuela, containing a population of only about one million, of which near two-thirds were persons of color, remained unsubdued. The little island of Margaritta, whose population was less than twenty thousand inhabitants—a population fighting for liberty with more than Roman valor—had compelled that army to retire upon the main. Spain, by the late accounts, appeared to be deliberating upon the necessity of resorting to that measure of conscription for which Bonaparte had been so much abused. The effect of a war with this country would be to ensure success, beyond all doubt, to the cause of American independence. Those parts even, over which Spain has some prospect of maintaining her dominions, would probably be put in jeopardy. Such a war would be attended with the immediate and certain loss of Florida. Commanding the Gulf of Mexico, as we should be enabled to do by our navy, blockading the port of Havana, the port of La Vera Cruz, and the coast of Terra Firma, and throwing munitions of war into Mexico, Cuba would be menaced—Mexico emancipated—and Morillo's army deprived of supplies, now drawn principally from this country through the Havana, compelled to surrender. The war, he verily believed, would be terminated in less than two years, supposing no other power to interpose.

Will the allies interfere? If, by the exertion of an unquestionable attribute of a sovereign power, we should give no just cause of war to Spain herself, how could it be pretended that we should furnish even a specious pretext to the allies for making war upon us? On what ground could they attempt to justify a rupture with us, for the exercise of a right which we hold in common with them, and with every other independent state? But we have a surer guarantee against their hostility, in their interests. That all the allies, who have any foreign commerce, have an interest in the independence of Spanish America, was perfectly evident. On what ground, he asked, was it likely, then, that they would support Spain, in opposition to their own decided interest? To crush the spirit of revolt, and prevent the progress of free principles? Nations, like individuals, do not sensibly feel, and seldom act upon dangers which are remote either

in time or place. Of Spanish America, but little is known by the great body of the population of Europe. Even in this country, the most astonishing ignorance prevails respecting them. Those European statesmen who were acquainted with the country, would reflect, that, tossed by a great revolution, it would most probably constitute four or five several nations, and that the ultimate modification of all their various governments was by no means absolutely certain. But, Mr. C. said, he entertained no doubt that the principle of cohesion among the allies was gone. It was annihilated in the memorable battle of Waterloo. When the question was, whether one should engross all, a common danger united all. How long was it, even with a clear perception of that danger, before an effective coalition could be formed? How often did one power stand by, unmoved and indifferent to the fate of its neighbor, although the destruction of that neighbor removed the only barrier to an attack upon itself? No; the consummation of the cause of the allies was, and all history and all experience would prove it, the destruction of the alliance. The principle was totally changed. It was no longer a common struggle against the colossal power of Bonaparte, but it became a common scramble for the spoils of his empire. There may, indeed, be one or two points on which a common interest still exists, such as the convenience of subsisting their armies on the vitals of poor suffering France. But as for action—for new enterprises, there was no principle of unity, there could be no accordance of interests, or of views, among them.

What was the condition in which Europe was left after all its efforts? It was divided into two great powers, one having the undisputed command of the land—the other of the water. Paris was transferred to St. Petersburg, and the navies of Europe were at the bottom of the sea, or concentrated in the ports of England. Russia—that huge land animal—awing by the dread of her vast power all continental Europe, was seeking to encompass the Porte; and constituting herself the kraken of the ocean, was anxious to lave her enormous sides in the more genial waters of the Mediterranean. It was said, he knew, that she had indicated a disposition to take part with Spain. No such thing. She had sold some old worm-eaten, decayed fir-built ships to Spain, but the crews which navigated them, were to return from the port of delivery, and the *bonus* she was to get, he believed to be the island of Minorca, in conformity with the cardinal point of her policy. France was greatly interested in whatever would extend her commerce, and regenerate her marine, and consequently, more than any other power of Europe, England alone excepted, was concerned in the independence of Spanish America. He did not despair of France, so long as France had a legislative body, collected from all its parts, the great repository of its wishes and its will. Already had that body manifested a spirit of considerable independence. And those who, conversant with



French history, knew what magnanimous stands had been made by the parliaments, bodies of limited extent, against the royal prerogative, would be able to appreciate justly the moral force of such a legislative body. Whilst it exists, the true interests of France will be cherished and pursued on points of foreign policy, in opposition to the pride and interests of the Bourbon family, if the actual dynasty, impelled by this pride, should seek to subserve these interests.

England finds that, after all her exertions, she is every where despised on the continent; her maritime power viewed with jealousy; her commerce subjected to the most onerous restrictions; selfishness imputed to all her policy. All the accounts from France represent that every party, Bonapartists, Jacobins, Royalists, Moderes, Ultras, all burn with indignation towards England, and pant for an opportunity to avenge themselves on the power to whom they ascribe all their disasters.

[Here Mr. C. read a part of a letter which he had just received from an intelligent friend at Paris, and which composed only a small portion of a mass of evidence to the same effect, which had come under his notice.] It was impossible, he said, that with powers, between whom so much cordial dislike, so much incongruity existed, there could be any union or concert. Whilst the free principles of the French revolution remained; those principles which were so alarming to the stability of thrones, there never had been any successful or cordial union; coalition after coalition, wanting the spirit of union, was swept away by the overwhelming power of France. It was not until those principles were abandoned and Bonaparte had erected on their ruins his stupendous fabric of universal empire—nor indeed until after the frosts of Heaven favored the cause of Europe, that an effective coalition was formed. No, said Mr. C., the complaisance inspired in the allies from unexpected, if not undeserved success, might keep them nominally together; but for all purposes of united and combined action, the alliance was gone; and he did not believe in the chimera of their crusading against the independence of a country, whose liberation would essentially promote all their respective interests.

But the question of the interposition of the allies, in the event of our recognizing the new republic, resolved itself into a question whether England, in such event, would make war upon us: if it could be shown that England would not, it resulted either that the other allies would not, or that, if they should, in which case England would most probably support the cause of America, it would be a war without the maritime ability to maintain it. He contended that England was alike restrained by her honor and by her interest from waging war against us, and consequently against Spanish America, also for an acknowledgment of the independence of the new state. England has encouraged and fomented the revolt of the colonies as early as June, 1797. Sir Thomas Picton, governor of Trinidad, in virtue of orders from

the British minister of foreign affairs, issued a proclamation, in which he expressly assures the inhabitants of Terra Firma, that the British government will aid in establishing their independence.\* In the prosecution of the same object, Great Britain defrayed the expenses of the famous expedition of Miranda. England, in 1811, when she was in the most intimate relations with Spain, then struggling against the French power, assumed the attitude of a mediator between the colonies and the peninsula. The terms on which she conceived her mediation could alone be effectual were rejected by the Cortes, at the lowest state of the Spanish power. Among these terms, England required for the colonies a perfect freedom of commerce, allowing only some degree of preference to Spain; that the appointments of viceroys and governors should be made indiscriminately from Spanish Americans and Spaniards; and that the interior government, and every branch of public administration, should be entrusted to the cabildo, or municipalities, &c. If Spain, when Spain was almost reduced to the island of St. Leon, then rejected those conditions, would she now consent to them, amounting, as they do, substantially, to the independence of Spanish America? If England, devoted as she was at that time to the cause of the Peninsula, even then thought those terms due to the colonies, would she now, when no particular motive existed for cherishing the Spanish power, and after the ingratitude with which Spain has treated her, think that the colonies ought to submit to less favorable conditions? And would not England stand disgraced in the eyes of the whole world, if, after having abetted and excited a revolution, she should now attempt to reduce the colonies to unconditional submission, or should make war upon us for acknowledging that independence which she herself sought to establish?

No guarantee for the conduct of nations or individuals ought to be stronger than that which honor imposes; but for those who would put no confidence in its obligations, he had an argument to urge of more conclusive force. It was founded upon the interests of England. Excluded almost as she is from the continent, the commerce of America, south and north, is worth to her more than the commerce of the residue of the world. That to all Spanish America, had been alone estimated at fifteen millions sterling. Its aggregate value to Spanish America and the United States, might be fairly stated at upwards of one hundred millions of dollars. The effect of a war with the two countries would be to divest England of this great interest, at a moment when she is anxiously engaged in repairing the ravages of

\* The following is the passage read:

"With regard to the hope you entertain of raising the spirits of those persons with whom you are in correspondence, towards encouraging the inhabitants to resist the oppressive authority of their government, I have little more to say than that they may be certain that whenever they are in that disposition, they may receive at your hands, all the succors to be expected from his Britannic Majesty, be it with forces or with arms and ammunition to any extent; with the assurance that the views of his Britannic Majesty go no further than to secure to them their independence," &c.

the European war. Looking to the present moment only, and merely to the interests of commerce, England is concerned more than even this country in the success of the cause of independence in Spanish America. The reduction of the Spanish power in America has been the constant and favorite aim of her policy for two centuries—she must blot out her whole history, reverse the maxims of all her illustrious statesmen; extinguish the spirit of commerce which animates, directs and controls all her movements, before she can render herself accessory to the subjugation of Spanish America. No commercial advantages which Spain might offer by treaty, could possess the security for her trade, which independence would communicate. The one would be most probably of limited duration, and liable to violation from policy, from interest or from caprice. The other would be as permanent as independence. That he did not mistake the views of the British cabinet, the recent proclamation of the prince regent he thought proved.—The committee would remark that that document did not describe the patriots as rebels or insurgents, but, using a term which he had no doubt had been well weighed, it declared the existence of a “state of warfare.” And with regard to English subjects, who were in the armies of Spain, although they had entered the service without restriction as to their military duties, it required that they should not take part against the colonies. The subjects of England freely supplied the patriots with arms and ammunition, and an honorable friend of his (Col. Johnson,) had just received a letter from one of the West India islands, stating the arrival there from England of the skeletons of three regiments, with many of the men to fill them, destined to aid the patriots. In the Quarterly Review of November last, a journal devoted to the ministry, and a work of the highest authority, as it respects their views—the policy of neutrality is declared and supported as the true policy of England; and that, even if the United States were to take part in the war; and Spain is expressly notified that she cannot and must not expect aid from England.\* In the case of the struggle be-

\* “In arguing therefore for the advantages of a strict neutrality, we must enter an early protest against any imputations of hostility to the cause of genuine freedom, or of any passion for despotism and the Inquisition. We are no more the panegyrists of legitimate authority in all times, circumstances, and situations, than we are advocates for revolution in the abstract,” &c. “But it has been plausibly asserted, that by abstaining from interference in the affairs of South America we are surrendering to the United States all the advantages which might be secured to ourselves from this revolution; that we are assisting to increase the trade and power of a nation which alone can ever be the maritime rival of England. It appears to us extremely doubtful whether any advantage, commercial or political, can be lost to England by a neutral conduct; it must be observed that the United States themselves have given every public proof of their intention to pursue the same line of policy. But admitting that this conduct is nothing more than a decent pretext; or admitting still farther, that they will afford to the Independents direct and open assistance, our view of the case would remain precisely the same,” &c. “To persevere in force, unaided, is to miscalculate her (Spain’s) own resources, even to insatiation. To expect the aid of an ally in such a cause would, if that ally were England, be to suppose this country as forgetful of its own past history as of its immediate interests and duties. Far better would it be for Spain, instead of calling for our aid, to profit by our experience; and to

tween Spain and her colonies, England, for once at least, had manifested a degree of wisdom highly deserving our imitation, but unfortunately the very reverse of her course had been pursued by us. She had so conducted, by operating upon the hopes of the two parties, as to keep on the best terms with both—to enjoy all the advantages of the rich commerce of both. We had, by a neutrality bill containing unprecedented features; and still more by a late executive measure, to say the least of it, of doubtful constitutional character, contrived to dissatisfy both parties. We had the confidence neither of Spain nor the colonies.

Mr. Clay said, it remained for him to defend the proposition which he meant to submit, from an objection, which he had heard intimated, that it interfered with the duties assigned to the executive branch. On this subject he felt the greatest solicitation; for no man more than himself respected the preservation of the independence of the several departments of government, in the constitutional orbits which were prescribed to them. It was his favorite maxim, that each, acting within its proper sphere, should move with its constitutional independence, and under its constitutional responsibility, without influence from any other. He was perfectly aware that the constitution of the United States, and he admitted the proposition in its broadest sense, confided to the executive the reception and the deputation of ministers. But, in relation to the latter operation, Congress had concurrent will, in the power of providing for the payment of their salaries. The instrument nowhere said or implied that the executive act of sending a minister to a foreign country should precede the legislative act which shall provide for the payment of his salary. And, in point of fact, our statutory code was full of examples of legislative action prior to executive action, both in relation to the deputation of agents abroad, and to the subject-matter of treaties. Perhaps the act of sending a minister abroad, and the act providing for the allowance of his salary, ought to be simultaneous; but if, in the order of precedence, there were more reason on the one side than on the other, he thought it was in favor of the priority of the legislative act, as the safer depository of power. When a minister is sent abroad, although the Legislature may be disposed to think his mission useless—although, if previously consulted, they would have said they would not consent to pay such a minister, the duty is delicate and painful to refuse to pay the salary promised to him whom the executive has even unnecessarily sent abroad. Mr. C. illustrated his ideas by the existing missions to Sweden and to the Netherlands. He had no hesitation in saying, that if we had not ministers of the first grade there, and if the Legislature

substitute ere it be too late, for efforts like those by which the North American colonies were lost to this country, the conciliatory measures by which they might have been retained."

were asked, prior to sending them, whether it would consent to pay ministers of that grade, that he would not, and he believed Congress would not, consent to pay them.

If it be urged that, by avowing our willingness, in a legislative act, to pay a minister not yet sent, and whom the President may think it improper to send abroad, we operate upon the President by all the force of our opinion; it may be retorted that, when we are called upon to pay any minister, sent under similar circumstances, we are operated upon by all the force of the President's opinion. The true theory of our government at least supposes that each of the two departments, acting on its proper constitutional responsibility, will decide according to its best judgment, under all the circumstances of the case. If we make the previous appropriation, we act upon our constitutional responsibility, and the President afterwards will proceed upon his. And so if he make the previous appointment. We have a right, after a minister is sent abroad, and we are called upon to pay him, and we ought to deliberate upon the propriety of his mission—we may and ought to grant or withhold his salary. If this power of deliberation is conceded subsequent to the deputation of the minister, it must exist prior to that deputation.—Whenever we deliberate, we deliberate under our constitutional responsibility. Pass the amendment he proposed, and it would be passed under that responsibility. Then the President, when he deliberated on the propriety of the mission, would act under his constitutional responsibility. Each branch of government, moving in its proper sphere, would act with as much freedom from the influence of the other as was practically attainable.

There was great reason, Mr. Clay contended, from the peculiar character of the American government, in there being a perfect understanding between the legislative and executive branches, in relation to the acknowledgment of a new power. Every where else the power of declaring war resided with the executive. Here it was deposited with the legislature. If, contrary to his opinion, there were even a risk that the acknowledgment of a new state might lead to war, it was advisable that the step should not be taken without a previous knowledge of the will of the war-making branch. He was disposed to give to the President all the confidence which he must derive from the unequivocal expression of our will. This expression he knew might be given in the form of an abstract resolution, declaratory of that will; but he preferred at this time proposing an act of practical legislation. And if he had been so fortunate as to communicate to the committee, in any thing like that degree of strength in which he entertained them, the convictions that the cause of the patriots was just—that the character of the war, as waged by Spain, should induce us to wish them success; that we had a great interest in that success; that this interest, as well as our neutral attitude, required us to acknowledge any established government in Spanish America; that the U

ted Provinces of the River Plate was such a government; that we might safely acknowledge its independence, without danger of war from Spain, from the allies, or from England; and that, without unconstitutional interference with the executive power, with peculiar fitness, we might express, in an act of appropriation, our sentiments, leaving him to the exercise of a just and responsible discretion. He hoped the committee would adopt the proposition which he had now the honor of presenting to them, after a respectful tender of his acknowledgments for their attention and kindness, during, he feared, the tedious period he had been so unprofitably trespassing upon their patience. He offered the following amendment to the bill:

“For one year’s salary, and an outfit to a minister to the United Provinces of the Rio de la Plata, the salary to commence, and the outfit to be paid, whenever the President shall deem it expedient to send a minister to the said United Provinces, a sum not exceeding eighteen thousand dollars.”

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## ON THE SEMINOLE WAR.

*Speech on the Seminole War, delivered in the House of Representatives, January 1819.*

MR. CHAIRMAN:

In rising to address you, sir, on the very interesting subject which now engages the attention of Congress, I must be allowed to say, that all inferences drawn from the course, which it will be my painful duty to take in this discussion, of unfriendliness either to the chief magistrate of the country, or to the illustrious military chieftain, whose operations are under investigation, will be wholly unfounded. Towards that distinguished captain, who shed so much glory on our country, whose renown constitutes so great a portion of its moral property, I never had, I never can have any other feelings than those of the most profound respect, and of the utmost kindness. With him my acquaintance is very limited, but, so far as it has extended, it has been of the most amicable kind. I know, said Mr. C. the motives which have been, and which will again be attributed to me, in regard to the other exalted personage alluded to. They have been and will be unfounded. I have no interest, other than that of seeing the concerns of my country well and happily administered. It is infinitely more gratifying to behold the prosperity of my country advancing by the wisdom of the measures adopted to promote it, than it would be to expose the errors which may be committed, if there be any, in the conduct of its affairs. Mr. C. said, little as had been his experience in public life, it had been sufficient to teach him that the most humble station is surrounded by difficul-



ties and embarrassments. Rather than throw obstructions in the way of the president, he would precede him, and pick out those, if he could, which might jostle him in his progress—he would sympathize with him in his embarrassments and commiserate with him in his misfortunes. It was true, that it had been his mortification to differ with that gentleman on several occasions. He might be again reluctantly compelled to differ with him; but he would with the utmost sincerity assure the committee that he had formed no resolution, come under no engagements, and that he never would form any resolution, or contract any engagements, for systematic opposition to his administration, or to that of any other chief magistrate.

Mr. Clay begged leave further to premise that the subject under consideration, presented two distinct aspects, susceptible, in his judgment, of the most clear and precise discrimination. The one he would call its foreign, the other its domestic aspect. In regard to the first, he would say, that he approved entirely of the conduct of his government, and that Spain had no cause of complaint. Having violated an important stipulation of the treaty of 1795, that power had justly subjected herself to all the consequences which ensued upon the entry into her dominions, and it belonged not to her to complain of those measures which resulted from her breach of contract; still less had she a right to examine into the considerations connected with the domestic aspect of the subject.

What were the propositions before the committee? The first in order was that reported by the military committee, which asserts the disapprobation of this House, of the proceedings in the trial and execution of Arbuthnot and Ambrister. The second, being the first contained in the proposed amendment, was the consequence of that disapprobation, and contemplates the passage of a law to prohibit the execution hereafter, of any captive, taken by the army, without the approbation of the president. The third proposition was, that this house disapproves of the forcible seizure of the Spanish posts, as contrary to orders, and in violation of the constitution. The fourth proposition, as the result of the last, is, that a law should pass to prohibit the march of the army of the United States, or any corps of it, into any foreign territory, without the previous authorization of Congress, except it be in fresh pursuit of a defeated enemy. The first and third were general propositions, declaring the sense of the House in regard to the evils pointed out, and the second and fourth proposed the legislative remedies against the recurrence of those evils.

It would be at once perceived, Mr. C. said, by this simple statement of the propositions, that no other censure was proposed against General Jackson himself, than what was merely consequential. His name even did not appear in any one of the resolutions. The legislature of the country, in reviewing the state of the Union, and considering the events which have transpired



since its last meeting, finds that particular occurrences, of the greatest moment, in many respects, had taken place near our southern border. He would add, that the House had not sought, by any officious interference with the duties of the executive, to gain jurisdiction over this matter. The president, in his message at the opening of the session, communicated the very information on which it was proposed to act. He would ask, for what purpose? That we should fold our arms and yield a tacit acquiescence, even if we supposed that information disclosed alarming events, not merely as it regards the peace of the country, but in respect to its constitution and character? Impossible. In communicating these papers, and voluntarily calling the attention of Congress to the subject, the president must himself have intended that we should apply any remedy that we might be able to devise. Having the subject thus regularly and fairly before us, and proposing merely to collect the sense of the House upon certain important transactions which it discloses, with the view to the passage of such laws as may be demanded by the public interest, he repeated, that there was no censure any where, except such as was strictly consequential upon our legislative action. The supposition of every new law, having for its object to prevent the recurrence of evil, is, that something has happened which ought not to have taken place, and no other than this indirect sort of censure would flow from the resolutions before the committee.

Having thus given his view of the nature and character of the propositions under consideration, Mr. C. said he was far from intimating, that it was not his purpose to go into a full, a free, and a thorough investigation of the facts, and of the principles of law, public, municipal, and constitutional, involved in them. And, whilst he trusted he should speak with the decorum due to the distinguished officers of the government, whose proceedings were to be examined, he should exercise the independence which belonged to him as a representative of the people, in freely and fully submitting his sentiments.

In noticing the painful incidents of this war, it was impossible not to inquire into its origin. He feared that it would be found to be the famous treaty of Fort Jackson, concluded in August, 1814; and he asked the indulgence of the chairman, that the clerk might read certain parts of that treaty. (The clerk having read as requested, Mr. C. proceeded.) He had never perused this instrument until within a few days past, and he had read it with the deepest mortification and regret. A more dictatorial spirit he had never seen displayed in any instrument. He would challenge an examination of all the records of diplomacy, not excepting even those in the most haughty period of imperial Rome, when she was carrying her arms into the barbarian nations that surrounded her, and he did not believe a solitary instance could be found of such an inexorable spirit of domination

pervading a compact purporting to be a treaty of *peace*. It consisted of the most severe and humiliating demands—of the surrender of a large territory—of the privilege of making roads through the remnant which was retained—of the right of establishing trading houses—of the obligation of delivering into our hands their prophets. And all this of a wretched people reduced to the last extremity of distress, whose miserable existence we had to preserve by a voluntary stipulation, to furnish them with bread! When did the all-conquering and desolating Rome ever fail to respect the altars and the gods of those whom she subjugated! Let me not be told that these prophets were impostors, who deceived the Indians. They were *their* prophets—the Indians believed and venerated them, and it is not for us to dictate a religious belief to them. It does not belong to the holy character of the religion which we profess, to carry its precepts, by the force of the bayonet, into the bosoms of other people. Mild and gentle persuasion was the great instrument employed by the meek Founder of our religion. We leave to the humane and benevolent efforts of the reverend professors of Christianity to convert from barbarism those unhappy nations yet immersed in its gloom. But, sir, spare them their prophets! spare their delusions! spare their prejudices and superstitions! spare them even their religion, such as it is, from open and cruel violence. When, sir, was that treaty concluded? On the very day, after the protocol was signed, of the first conference between the American and British commissioners, treating of peace, at Ghent. In the course of that negotiation, pretensions so enormous were set up, by the other party, that, when they were promulgated in this country, there was one general burst of indignation throughout the continent. Faction itself was silenced, and the firm and unanimous determination of all parties was, to fight until the last man fell in the ditch, rather than submit to such ignominious terms. What a contrast is exhibited between the contemporaneous scenes of Ghent and of Fort Jackson! what a powerful voucher would the British commissioners have been furnished with, if they could have got hold of that treaty! The United States *demand*, the United States *demand*, is repeated five or six times. And what did the preamble itself disclose? That two-thirds of the Creek nation had been hostile, and one-third only friendly to us. Now he had heard, (he could not vouch for the truth of the statement,) that not one hostile chief signed the treaty. He had also heard that perhaps one or two of them had. If the treaty were really made by a minority of the nation, it was not obligatory upon the whole nation. It was void, considered in the light of a national compact. And, if void, the Indians were entitled to the benefit of the provision of the ninth article of the treaty of Ghent, by which we bound ourselves to make peace with any tribes with whom we might be at war on the ratification of the treaty, and to restore to them their lands, as they held them in 1811. Mr. C. said he did not

know how the honorable Senate, that body for which he held so high a respect, could have given their sanction to the treaty of Fort Jackson, so utterly irreconcilable as it is with those noble principles of generosity and magnanimity which he hoped to see his country always exhibit, and particularly toward the miserable remnant of the Aborigines. It would have comported better with those principles, to have imitated the benovolent policy of the founder of Pennsylvania, and to have given to the Creeks, conquered as they were, even if they had made an unjust war upon us, the trifling consideration, to them an adequate compensation, which he paid for their lands. That treaty, Mr. C. said, he feared, had been the main cause of the recent war. And, if it had been, it only added another melancholy proof to those with which history already abounds, that hard and unconscionable terms, extorted by the power of the sword and the right of conquest, served but to whet and stimulate revenge, and to give to old hostilities, smothered, not extinguished, by the pretended peace, greater exasperation and more ferocity. A truce, thus patched up with an unfortunate people, without the means of existence, without bread, is no real peace. The instant there is the slightest prospect of relief from such harsh and severe conditions, the conquered party will fly to arms, and spend the last drop of blood rather than live in such degraded bondage. Even if you again reduce him to submission, the expenses incurred by this second war, to say nothing of the human lives that are sacrificed, will be greater than what it would have cost you to have granted him liberal conditions in the first instance. This treaty, he repeated it, was, he apprehended, the cause of the war. It led to those excesses on our southern borders which began it. Who first commenced them, it was perhaps difficult to ascertain. There was, however, a paper on this subject, communicated at the last session by the President, that told, in language pathetic and feeling, an artless tale—a paper that carried such internal evidence, at least, of the belief of the authors of it that they were writing the truth, that he would ask the favor of the committee to allow him to read it.\* I should be very un-

\* The following is the letter from ten of the Seminole towns, which Mr. C. read:  
*To the Commanding Officer at Fort Hawkins:*

DEAR SIR,

Since the last war, after you sent word that we must quit the war, we, the red people, have come over on this side. The white people *have carried all the red people's cattle off*. After the war, I sent to all my people to let the white people alone, and stay on this side of the river; and they did so: but the white people *still continue to carry off their cattle*. Bernard's son was here, and I inquired of him what was to be done—and he said we must go to the head man of the white people, and *complain*. I did so, and there was no head white man, and *there was no law in this case*. The whites first began, and there is nothing said about that; but *great complaint about what the Indians do*. This is now three years since the white people killed three Indians—since that they have killed *three other Indians*, and taken their horses, and what they had; and this summer they killed *three more*; and very lately they killed one more. We sent word to the white people that these murders were done, and the answer was, that they were people that were *outlaws*, and we ought to go and kill them. The white people killed our people first; the Indians then took satisfaction. There are yet three men that the red people have never taken satisfaction for. You have wrote that there were houses burnt; but we know of no

willing, Mr. C. said, to assert, in regard to this war, that the fault was on our side; but he feared it was. He had heard that a very respectable gentleman, now no more, who once filled the executive chair of Georgia, and who, having been agent of Indian affairs in that quarter, had the best opportunity of judging of the origin of this war, deliberately pronounce it as his opinion that the Indians were not in fault. Mr. C. said, that he was far from attributing to General Jackson any other than the very slight degree of blame which attached to him as the negotiator of the treaty of Fort Jackson, and which would be shared by those who subsequently ratified and sanctioned that treaty. But if there were even a doubt as to the origin of the war, whether we were censurable or the Indians, that doubt would serve to increase our regret at any distressing incidents which may have occurred, and to mitigate, in some degree, the crimes which we impute to the other side. He knew, he said, that when General Jackson was summoned to the field, it was too late to hesitate—the fatal blow had been struck, in the destruction of Fowl-town, and the dreadful massacre of Lieutenant Scott and his detachment; and the only duty which remained to him, was to terminate this unhappy contest.

The first circumstance which, in the course of his performing that duty, fixed our attention, had, Mr. C. said, filled him with regret. It was the execution of the Indian chiefs. How, he asked, did they come into our possession? Was it in the course of fair, and open, and honorable war? No, but by means of deception—by hoisting foreign colors on the staff from which the

such thing being done: the truth in such cases ought to be told, but this appears otherwise. On that side of the river, the white people have killed five Indians; but there is nothing said about that; and all that the Indians have done is brought up. *All the mischief the white people have done, ought to be told to their head man.* When there is any thing done, you write to us; but never write to your head man what the white people do. When the red people send talks, or write, they always send the truth. You have sent to us for your horses, and we sent all that we could find; but there were some dead. It appears that all the mischief is laid on this town; but all the mischief that has been done by this town is two horses; one of them is dead, and the other was sent back. The cattle that we are accused of taking were cattle *that the white people took from us.* Our young men went and brought them back, with the same marks and brands. There were some of our young men out hunting, and they were killed; others went to take satisfaction, and the kettle of one of the men that was killed was found in the house where the woman and two children were killed; and they supposed it had been her husband who had killed the Indians, and took their satisfaction there. We are accused of killing the Americans, and so on; but since the word was sent to us that peace was made, we stay steady at home, *and meddle with no person.* You have sent to us respecting the black people on the Suwanee river: we have nothing to do with them. They were put there by the English, and to them you ought to apply for any thing about them. We do not wish our country desolated by an army passing through it, for the concern of other people. The Indians have slaves there also; a great many of them. When we have an opportunity we shall apply to the English for them, but we cannot get them now.

This is what we have to say at present.

Sir, I conclude by subscribing myself,

Your humble servant, &c.

September, the 11th day, 1817.

N. B.—There are ten towns have read this letter, and this is the answer.

A true copy of the original.

WM. BELL, Aid-de-camp.

stars and stripes should alone have floated. Thus ensnared, the Indians were taken on shore, and without ceremony, and without delay, were hung. Hang an Indian! We, sir, who are civilized, and can comprehend and feel the effect of moral causes and considerations, attach ignominy to that mode of death. And the gallant, and refined, and high-minded man, seeks by all possible means to avoid it. But what cares an Indian whether you hang or shoot him? The moment he is captured, he is considered by his tribe as disgraced, if not lost. They, too, are indifferent about the manner in which he is despatched. But, Mr. C. said, he regarded the occurrence with grief for other and higher considerations. It was the first instance that he knew of, in the annals of our country, in which retaliation, by executing Indian captives, had ever been deliberately practised. There may have been exceptions, but if there were, they met with contemporaneous condemnation, and have been reprehended by the just pen of impartial history. The gentleman from Massachusetts may tell me, if he chooses, what he pleases about the tomahawk and scalping knife—about Indian enormities, and foreign miscreants and incendiaries. I, too, hate them; from my very soul I abominate them. But, I love my country, and its constitution; I love liberty and safety, and fear military despotism more, even, than I hate these monsters. The gentleman, in the course of his remarks, alluded to the State from which I have the honor to come. Little, sir, does he know of the high and magnanimous sentiments of the people of that State, if he supposes they will approve of the transaction to which he referred. Brave and generous, humanity and clemency towards a fallen foe constitute one of their noblest characteristics. Amidst all the struggles for that fair land between the natives and the present inhabitants, Mr. C. said, he defied the gentleman to point out one instance in which a Kentuckian had stained his hand by—nothing but his high sense of the distinguished services and exalted merits of General Jackson prevented his using a different term—the execution of an unarmed and prostrate captive. Yes, said Mr. C., there was one solitary exception, in which a man, enraged at beholding an Indian prisoner, who had been celebrated for his enormities, and who had destroyed some of his kindred, plunged his sword into his bosom. The wicked deed was considered as an abominable outrage when it occurred, and the name of the man has been handed down to the execration of posterity. I deny your right, said Mr. C., thus to retaliate on the aboriginal proprietors of the country; and unless I am utterly deceived, it may be shown that it does not exist. But before I attempt this, allow me to make the gentleman from Massachusetts a little better acquainted with those people, to whose feelings and sympathies he has appealed through their representative. During the late war with Great Britain, Colonel Campbell, under the command of my honorable friend from Ohio, (General Harrison) was placed at the head of a detachment consisting chiefly, he

believed, of Kentucky volunteers, in order to destroy the Mississinaway towns. They proceeded and performed the duty, and took some prisoners. And here is evidence of the manner in which they treated them. (Here Mr. C. read the general orders issued on the return of the detachment.)\* I hope, sir, the honorable gentleman will now be able better to appreciate the character and conduct of my gallant countrymen than he appears hitherto to have done.

But, sir, I have said that you have no right to practise under color of retaliation, enormities on the Indians. I will advance in support of this position, as applicable to the origin of all law, the principle, that whatever has been the custom, from the commencement of a subject, whatever has been the uniform usage co eval and co-existent with the subject to which it relates, becomes its fixed law. Such was the foundation of all common law; and such, he believed, was the principal foundation of all public or international law. If, then, it could be shown that from the first settlement of the colonies, on this part of the American continent, to the present time, we have constantly abstained from retaliating upon the Indians the excesses practised by them towards us, we were morally bound by this invariable usage, and could not lawfully change it without the most cogent reasons. So far as his knowledge extended, he said, that from the first settlement at Plymouth or at Jamestown, it had not been our practice to destroy Indian captives, combatants or non-combatants. He knew of but one deviation from the code which regulated the warfare between civilized communities, and that was the destruction of Indian towns, which was supposed to be authorized upon the ground that we could not bring the war to a termination but by destroying the means which nourished it. With this single exception, the other principles of the laws of civilized nations are extended to them, and are thus made law in regard to them. When did this humane custom, by which, in consideration of their ignorance, and our enlightened condition, the rigors of war were mitigated, begin? At a time when we were weak, and they were comparatively strong—when they were the lords of the soil, and we were seeking, from the vices, from the corruptions, from the religious intolerance, and from the oppressions of Europe, to gain an asylum among them. And when is it proposed to change this custom, to substitute for it the bloody

\* The following is the extract read by Mr. Clay:

"But the character of this gallant detachment, exhibiting, as it did, perseverance, fortitude, and bravery, would, however, be incomplete, if, in the midst of victory, they had forgotten the feelings of humanity. It is with the sincerest pleasure that the general has heard, that the most punctual obedience was paid to his orders, in not only saving all the women and children, but *in sparing all the warriors who ceased to resist*; and that even when vigorously attacked by the enemy, the claims of mercy prevailed over every sense of their own danger, and this heroic band *respected the lives of their prisoners*. Let an account of murdered innocence be opened in the records of heaven against our enemies alone. The American soldier will follow the example of his government, and the sword of the one will not be raised against the fallen and the helpless, nor the gold of the other be paid for scalps of a massacred enemy."



maxims of barbarous ages, and to interpolate the Indian public law with revolting cruelties? At a time when the situation of the two parties is totally changed—when we are powerful and they are weak—at a time when, to use a figure drawn from their own sublime eloquence, the poor children of the forest have been driven by the great wave which has flowed in from the Atlantic ocean almost to the base of the Rocky mountains; and, overwhelming them in its terrible progress, he has left no other remains of hundreds of tribes, now extinct, than those which indicate the remote existence of their former companion, the Mammoth of the new world! Yes, sir, it is at this auspicious period of our country, when we hold a proud and lofty station among the first nations of the world, that we are called upon to sanction a departure from the established laws and usages which have regulated our Indian hostilities. And does the honorable gentleman from Massachusetts expect, in this august body, this enlightened assembly of christians and Americans, by glowing appeals to our passions, to make us forget our principles, our religion, our clemency and our humanity? Why was it, Mr. C. asked, that we had no practised towards the Indian tribes the right of retaliation, now for the first time asserted in regard to them? It was because it is a principle proclaimed by reason, and enforced by every respectable writer on the law of nations, that retaliation is only justifiable as calculated to produce *effect* in the war. Vengeance was a new motive for resorting to it. If retaliation will produce no effect on the enemy, we are bound to abstain from it, by every consideration of humanity and of justice. Will it, then, produce effect on the Indian tribes? No—they care not about the execution of those of their warriors who are taken captive. They are considered as disgraced by the very circumstance of their captivity, and it is often mercy to the unhappy captive to deprive him of his existence. The poet evinced a profound knowledge of the Indian character, when he put into the mouth of the son of a distinguished chief, about to be led to the stake and tortured by his victorious enemy, the words:

Begin, ye tormentors! your threats are in vain:  
The son of Alknomook will never complain.

Retaliation of Indian excesses, not producing then any effect in preventing their repetition, was condemned by both reason and the principles upon which alone, in any case, it can be justified. On this branch of the subject, much more might be said, but as he should possibly again allude to it, he would pass from it, for the present, to another topic.

It was not necessary, Mr. C. said, for the purpose of his argument in regard to the trial and execution of Arbuthnot and Ambrister, to insist on the innocency of either of them. He would yield for the sake of that argument, without inquiry, that both of them were guilty; that both had instigated the war; and that one of them had led the enemy to battle. It was possible,



indeed, that a critical examination of the evidence would show, particularly in the case of Arbuthnot, that the whole amount of his crime consisted in his trading, without the limits of the United States, with the Seminole Indians, in the accustomed commodities which form the subject of Indian trade, and that he sought to ingratiate himself with his customers, by espousing their interests, in regard to the provision of the treaty of Ghent, which he may have honestly believed entitled them to the restoration of their lands. And if, indeed, the treaty of Fort Jackson, for the reasons already assigned, were not binding upon the Creeks, there would be but too much cause to lament his unhappy, if not unjust fate. The first impression made on the examination of the proceedings in the trial and execution of those two men, is, that on the part of Ambrister there was the most guilt, but, at the same time, the most irregularity. Conceding the point of guilt of both, with the qualification which he had stated, he would proceed to inquire, first, if their execution could be justified upon the principles assumed by General Jackson himself. If they did not afford a justification, he would next inquire if there were any other principles authorizing their execution; and he would, in the third place, make some observations upon the mode of proceeding.

The principle assumed by General Jackson, which may be found in his general orders commanding the execution of these men, is, "that it is an established principle of the law of nations, that any individual of a nation, making war against the citizens of any other nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." Whatever may be the character of individuals waging private war, the principle assumed is totally erroneous, when applied to such individuals associated with a power, whether Indian or civilized, capable of maintaining the relations of peace and war. Suppose, however, the principle were true, as asserted, what disposition should he have made of these men? What jurisdiction, and how acquired, has the military over pirates, robbers, and outlaws? If they were in the character imputed, they were alone amenable, and should have been turned over to the civil authority. But the principle, he repeated, was totally incorrect, when applied to men in their situation. A foreigner, connecting himself with a belligerent, becomes an enemy of the party to whom that belligerent is opposed, subject to whatever he may be subject, entitled to whatever he is entitled. Arbuthnot and Ambrister, by associating themselves, became identified with the Indians; they became our enemies, and we had a right to treat them as we could lawfully treat the Indians. These positions were so obviously correct, that he should consider it an abuse of the patience of the committee to consume time in their proof. They were supported by the practice of all nations, and of our own. Every page of history, in all times, and the recollection of every member, furnish evidence of their truth. Let us look for a moment into some

of the consequences of this principle, if it were to go to Europe, sanctioned by the approbation, express or implied, of this house. We have now in our armies probably the subjects of almost every European power. Some of the nations of Europe maintain the doctrine of perpetual allegiance. Suppose Britain and America in peace, and America and France at war. The former subjects of England, naturalized and unnaturalized, are captured by the navy or army of France. What is their condition? according to the principle of General Jackson, they would be outlaws and pirates, and liable to immediate execution. Were gentlemen prepared to return to their respective districts with this doctrine in their mouths, and say to their Irish, English, Scotch, and other foreign constituents, that you are liable, on the contingency supposed, to be treated as outlaws and pirates?

Was there any other principle which justified the proceedings? On this subject, he said, if he admired the wonderful ingenuity with which gentlemen sought a colorable pretext for those executions, he was at the same time shocked at some of the principles advanced. What said the honorable gentleman from Massachusetts (Mr. Holmes) in a cold address to the committee? Why, that these executions were only the wrong mode of doing a right thing. A wrong mode of doing a right thing! In what code of public law; in what system of ethics; nay, in what respectable novel; where, if the gentleman were to take the range of the whole literature of the world, will he find any sanction for a principle so monstrous? He would illustrate its enormity by a single case. Suppose a man being guilty of robbery, is tried, condemned, and executed for murder, upon an indictment for that robbery merely. The judge is arraigned for having executed, contrary to law, a human being, innocent at heart of the crime for which he was sentenced. The judge has nothing to do, to ensure his own acquittal, but to urge the gentleman's plea, that he had done a right thing a wrong way!

The principles which attached to the cases of Arbuthnot and Ambrister, constituting them merely *participes* in the war, supposing them to have been combatants, which the former was not, he having been taken in a Spanish fortress, without arms in his hands, all that we could possibly have a right to do, was to apply to them the rules which we had a right to enforce against the Indians. Their English character was only merged in their Indian character. Now, if the law regulating Indian hostilities, be established by long and immemorial usage, that we have no moral right to retaliate upon them, we consequently had no right to retaliate upon Arbuthnot and Ambrister. Even if it were admitted that, in regard to future wars, and to other foreigners, their execution may have a good effect, it would not thence follow that you had a right to execute them. It is not always just to do what may be advantageous. And retaliation, during a war, must have relation to the events of that war, and must, to

be just, have an operation on that war, and upon the individuals only who compose the belligerent party. It became gentlemen, then, on the other side, to show, by some known, certain and recognized rule of public or municipal law, that the execution of these men was justified. Where is it? He should be glad to see it. We are told in a paper emanating from the department of state, recently laid before this house, distinguished for the fervor of its eloquence, and of which the honorable gentleman from Massachusetts has supplied us in part with a second edition, in one respect agreeing with the prototype, that they both ought to be inscribed to the American public—we are justly told in that paper, that this is the *first* instance of the execution of persons for the crime of instigating Indians to war. Sir, there are two topics which, in Europe, are constantly employed by the friends and minions of legitimacy against our country. The one is an inordinate spirit of aggrandizement—of coveting other people's goods. The other is the treatment which we extend to the Indians. Against both these charges, the public servants who conducted at Ghent the negotiations with the British commissioners, endeavored to vindicate our country, and he hoped with some degree of success. What will be the condition of future American negotiators, when pressed upon this head, he knew not, after the unhappy executions on our southern border. The gentleman from Massachusetts seemed on yesterday to read, with a sort of triumph, the names of the commissioners employed in the negotiation at Ghent. Will he excuse me for saying, that I thought he pronounced, even with more complacency and with a more gracious smile, the first name in the commission, than he emphasized that of the humble individual who addresses you. (Mr. Holmes desired to explain.) Mr. C. said there was no occasion for explanation; he was perfectly satisfied. (Mr. H. however, proceeded to say that his intention was, in pronouncing the gentleman's name, to add to the respect due to the negotiator that which was due to the speaker of this house.) To return to the case of Arbuthnot and Ambrister. Will the principle of these men having been the instigators of the war, justify their execution? It was a new one; there were no land marks to guide us in its adoption, or to prescribe limits in its application. If William Pitt had been taken by the French army, during the late European war, could France have justifiably executed him, on the ground of his having notoriously instigated the continental powers to war against France? Would France, if she had stained her character by executing him, have obtained the sanction of the world to the act, by appeals to the passions and prejudices, by pointing to the cities sacked, the countries laid waste, the human lives sacrificed in the wars which he had kindled, and by exclaiming to the unfortunate captive, you! miscreant, monster have occasioned all these scenes of devastation and blood. What had been the conduct even of England towards the greatest instigator of all the wars of the present age? The condem-

nation of that illustrious man to the rock of St. Helena, was a great blot on the English name. And Mr. C. repeated what he had before said, that if Chatham or Fox, or even William Pitt himself, had been prime minister, in England, Bonaparte had never been so condemned. On that transaction history will one day pass its severe but just censure. Yes, although Napoleon had desolated half Europe; although there was scarcely a power, however humble, that escaped the mighty grasp of his ambition; although in the course of his splendid career he is charged with having committed the greatest atrocities, disgraceful to himself and to human nature, yet even his life has been spared. The allies would not, England would not, execute him, upon the ground of his being an instigator of wars.

The mode of the trial and sentencing these men, Mr. C. said, was equally objectionable with the principles on which it had been attempted to prove a forfeiture of their lives. He knew, he said, the laudable spirit which prompted the ingenuity displayed in finding out a justification for these proceedings. He wished most sincerely that he could reconcile them to his conscience. It had been attempted to vindicate the General upon grounds which he was persuaded he would himself disown. It had been asserted, that he was guilty of a mistake in calling upon the court to try them, and that he might have at once ordered their execution, without that formality. He denied that there was any such absolute right in the commander of any portion of our army. The right of retaliation is an attribute of sovereignty. It is comprehended in the war making power that Congress possesses. It belongs to this body not only to declare war, but to raise armies, and to make rules and regulations for their government. It was in vain for gentlemen to look to the law of nations for instances in which retaliation is lawful. The laws of nations merely laid down the *principle or rule*; it belongs to the government to constitute the tribunal for applying that principle or rule. There was, for example, no instance in which the death of a captive was more certainly declared by the law of nations to be justifiable, than in the case of spies. Congress has accordingly provided, in the rules and articles of war, a tribunal for the trial of spies, and consequently for the application of the principle of the national law. The legislature had not left the power over spies undefined, to the mere discretion of the commander in chief, or of any subaltern officer in the army. For, if the doctrines now contended for were true, they would apply to the commander of any corps, however small, acting as a detachment. Suppose Congress had not legislated in the case of spies, what would have been their condition? It would have been a *casus omissus*, and although the public law pronounced their doom, it could not be executed because Congress had assigned no tribunal for enforcing that public law. No man could be executed in this free country without two things being shown: 1st, That the law condemns him to death; and 2d, That his death is

pronounced by that tribunal which is authorized by the law to try him. These principles would reach every man's case, native or foreign, citizen or alien. The instant quarters are granted to a prisoner, the majesty of the law surrounds and sustains him, and he cannot be lawfully punished with death without the concurrence of the two circumstances just insisted upon. He denied that any commander in chief, in this country, had this absolute power of life and death, at his sole discretion. It was contrary to the genius of all our laws and institutions. To concentrate in the person of one individual the powers to make the rule, to judge and to execute the rule, or to judge, and execute the rule only, was utterly irreconcilable with every principle of free government, and was the very definition of tyranny itself; and he trusted that this house would never give even a tacit assent to such a principle. Suppose the commander had made even reprisals on property, would that property have belonged to the nation, or could he have disposed of it as he pleased? Had he more power, would gentlemen tell him, over the lives of human beings, than over property? The assertion of such a power to the commander in chief, was contrary to the practice of the government. By an act of Congress, which passed in 1799, vesting the power of retaliation in certain cases in the President of the United States—an act which passed during the *quasi* war with France, the President is authorized to retaliate upon any of the citizens of the French republic, the enormities which may be practised in certain cases, upon our citizens. Under what administration was this act passed? It was under that which has been justly charged with stretching the constitution to enlarge the executive powers. Even during the mad career of Mr. Adams, when every means were resorted to for the purpose of infusing vigor into the executive arm, no one thought of claiming for him the inherent right of retaliation. He would not trouble the house with reading another law, which passed thirteen or fourteen years after, during the late war with Great Britain, under the administration of that great constitutional President, the father of the instrument itself, by which Mr. Madison was empowered to retaliate on the British in certain instances. It was not only contrary to the genius of our institutions, and to the uniform practice of the government, but it was contrary to the obvious principles on which the General himself had proceeded; for, in forming the court, he had evidently intended to proceed under the rules and articles of war. The extreme number which they provide for is thirteen, precisely that which is detailed in the present instance. The court proceeded not by a bare plurality, but by a majority of two-thirds. In the general orders issued from the Adjutant General's office, at head quarters, it is described as a *court-martial*. The prisoners are said, in those orders, to have been *tried* "on the following *charges and specifications*." The court understood itself to be acting as a court-martial. It was so organized—it so proceeded, having a judge advocate, hearing witnesses, and the

*written* defence of the miserable trembling prisoners, who seemed to have a presentiment of their doom. And the court was finally dissolved. The whole proceeding manifestly shows that all parties considered it as a court-martial, convened and acting under the rules and articles of war. In his letter to the secretary of war, noticing the transaction, the General says: "These individuals were tried under my orders, *legally* convicted as excitors of this savage and negro war, *legally* condemned and most justly punished for their iniquities." The Lord deliver us from such legal conviction, and such legal condemnation! The General himself considered the laws of his country to have justified his proceedings. It was in vain then to talk of a power in him beyond the law, and above the law, when he himself does not assert it. Let it be conceded, that he was clothed with absolute authority over the lives of those individuals, and that, upon his own fiat, without trial, without defence, he might have commanded their execution. Now, if an absolute sovereign, in any particular respect, promulgates a rule, which he pledges himself to observe, if he subsequently deviates from that rule, he subjects himself to the imputation of odious tyranny. If General Jackson had the power, without a court, to condemn these men, he had also the power to appoint a tribunal. He did appoint a tribunal, and became, therefore, morally bound to observe and execute the sentence of that tribunal. In regard to Ambrister, it was with grief and pain he was compelled to say, that he was executed in defiance of all law; in defiance of the law to which General Jackson had voluntarily, if you please, submitted himself, and given, by his appeal to the court, his implied pledge to observe. He knew but little of military law, and what had happened, had certainly not created in him a taste for acquiring a knowledge of more; but he believed there was no example on record, where the sentence of the court has been erased, and a sentence not pronounced by it carried into execution. It had been suggested that the court had pronounced two sentences, and that the General had a right to select either. Two sentences! Two verdicts! It was not so. The first being revoked, was as though it had never been pronounced. And there remained only one sentence, which was put aside upon the sole authority of the commander, and the execution of the prisoner ordered. He either had or had not a right to decide upon the fate of that man, without the intervention of a court. If he had the right, he waived it, and, having violated the sentence of the court, there was brought upon the judicial administration of the army a reproach, which must occasion the most lasting regret.

However guilty these men were, they should not have been condemned or executed, without the authority of the law. He would not dwell, at this time, on the effect of these precedents in foreign countries, but he would not pass unnoticed their dangerous influence in our own country. Bad examples are generally set



in the cases of bad men, and often remote from the central government. It was in the provinces that were laid the abuses and the seeds of the ambitious projects which overturned the liberties of Rome. He beseeched the committee not to be so captivated by the charms of eloquence, and the appeals made to our passions and our sympathies, as to forget the fundamental principles of our government. The influence of a bad example would often be felt when its authors and all the circumstances connected with it, were no longer remembered. He knew of but one analogous instance of the execution of a prisoner, and that had brought more odium, than almost any other incident, on the unhappy emperor of France. He alluded to the instance of the execution of the unfortunate member of the Bourbon house. He sought an asylum in the territories of Baden. Bonaparte despatched a corps of gen-d'armes to the place of his retreat, seized him, and brought him to the dungeons of Vincennes. He was there tried by a court martial, condemned, and shot. There, as here was a violation of neutral territory; there the neutral ground was not stained with the blood of him whom it should have protected. And there was another most unfortunate difference for the Amercian example. The duke D'Enghein was executed *according to his sentence*. It is said by the defenders of Napoleon, that the duke had been machinating not merely to overturn the French government, but against the life of its chief. If that were true, he might, if taken in France, have been legally executed. Such was the odium brought upon the instruments of this transaction, that those persons who have been even suspected of participation in it have sought to vindicate themselves from what they appear to have considered as an aspersion, before foreign courts. In conclusion of this part of the subject, Mr. C. said that he most cheerfully and entirely acquitted General Jackson of any intention to violate the laws of the country, or the obligations of humanity. He was persuaded, from all that he had heard, that he considered himself as equally respecting and observing both. With respect to the purity of his intentions, therefore, he was disposed to allow it in the most extensive degree. Of his *acts*, said Mr. C., it is my duty to speak with the freedom which belongs to my station. And I shall now proceed to consider some of them, of the most momentous character, as it regards the distribution of the powers of government.

Of all the powers conferred by the constitution of the United States, not one is more expressly and exclusively granted than that which gives to Congress the power to declare war. The immortal convention who formed that instrument, had abundant reason drawn from every page of history, for confiding this tremendous power to the deliberate judgment of the representatives of the people. It was there seen that nations are often precipitated into ruinous war from folly, from pride, from ambition, and from the desire of military fame. It was believed, no doubt, in committing this great subject to the legislature of the Union, we



should be safe from the mad wars that have afflicted and desolated and ruined other countries. It was supposed that before any war was declared, the nature of the injury complained of would be carefully examined, and the power and resources of the enemy estimated, and the power and resources of our own country, as well as the probable issue and consequences of the war. It was to guard our country against precisely that species of rashness, which has been manifested in Florida, that the constitution was so framed. If, then, this power, thus cautiously and clearly bestowed upon Congress, has been assumed and exercised by any other functionary of the government, it is cause of serious alarm, and it became that body to vindicate and maintain its authority by all the means in its power; and yet there are some gentlemen, who would have us not merely to yield a tame and silent acquiescence in the encroachment, but even to pass a vote of thanks to the author.

On the twenty-fifth of March, 1818, (Mr. C. continued,) the president of the United States, communicated a message to Congress in relation to the Seminole war, in which he declared that, although in the prosecution of it, orders had been given to pass into the Spanish territory, they were so guarded as that the local authorities of Spain should be respected. How respected? The president, by the documents accompanying the message, the orders themselves which issued from the department of war, to the commanding general, had assured the legislature that, even if the enemy should take shelter under a Spanish fortress, the fortress was not to be attacked, but the fact to be reported to that department for further orders. Congress saw, therefore, that there was no danger of violating the existing peace. And yet, on the same twenty-fifth day of March (a most singular concurrence of dates,) when the representatives of the people received this solemn message, announced in the presence of the nation and in the face of the world, and in the midst of a friendly negotiation with Spain, does General Jackson write from his headquarters, that he shall take St. Marks as a necessary depot for his military operations! The General states, in his letter, what he had heard about the threat on the part of the Indians and Negroes, to occupy the fort, and declares his purpose to possess himself of it, in either of the two contingencies, of its being in their hands, or in the hands of the Spaniards. He assumed a right to judge what Spain was bound to do by her treaty, and judged very correctly; but then he also assumed the power, belonging to Congress alone, of determining what should be the effect, and consequence of her breach of engagement. General Jackson generally performs what he intimates his intention to do. Accordingly, finding St. Marks yet in the hands of the Spaniards, he seized and occupied it. Was ever, he asked, the just confidence of the legislative body, in the assurances of the chief magistrate, more abused? The Spanish commander intimated his willingness that the American army should take post near him, until he could have instructions from his superior officer, and pro-

misadvised to maintain in the mean time the most friendly relations. No! St. Marks was a convenient post for the American army, and delay was inadmissible. He had always understood that the Indians but rarely take or defend fortresses, because they are unskilled in the modes of attack and defence. The threat, therefore, on their part, to seize on St. Marks must have been empty, and would probably have been impossible. At all events, when General Jackson arrived there, no danger any longer threatened the Spaniards from the miserable fugitive Indians, who fled on all sides upon his approach. And, sir, upon what plea is this violation of orders, and this act of war upon a foreign power, attempted to be justified? Upon the grounds of the expediency of the depot and the Indian threat. The first he would not seriously examine and expose. If the Spanish character of the fort had been totally merged in the Indian character, it might have been justifiable to seize it. But that was not the fact, and the bare possibility of its being forcibly taken by the Indians, could not justify our anticipating their blow. Of all the odious transactions which occurred during the late war between France and England, none was more condemned in Europe and in this country, than her seizure of the fleet of Denmark at Copenhagen. And he lamented to be obliged to notice the analogy which existed in the defences made of the two cases. If his recollection did not deceive him, Bonaparte had passed the Rhine and the Alps, had conquered Italy, the Netherlands, Holland, Hanover, Lubec, and Hamburg, and extended his empire as far as Altona on the side of Denmark. A few days' march would have carried him through Holstein, over the two Belts, through Funen, and into the island of Zealand. What then was the conduct of England? It was my lot, Mr. C. said, to fall into conversation with an intelligent Englishman on this subject. "We knew (said he) that we were fighting for our existence. It was absolutely necessary that we should preserve the command of the seas. If the fleet of Denmark fell into the enemy's hands, combined with his other fleets, that command might be rendered doubtful. Denmark had only a nominal independence. She was, in truth, subject to his sway. We said to her, give us your fleet; it will otherwise be taken possession of by your secret and our open enemy. We will preserve it, and restore it to you whenever the danger shall be over. Denmark refused. Copenhagen was bombarded, gallantly defended, but the fleet was seized." Every where the conduct of England was censured; and the name even of the negotiator who was employed by her, who was subsequently the minister near this government, was scarcely ever pronounced here without coupling with it an epithet indicating his participation in the disgraceful transaction. And yet we are going to sanction acts of violence, committed by ourselves, which but too much resemble it! What an important difference, too, between the relative condition of England and of this country! She perhaps was struggling for her existence. She was com-

bating, single-handed, the most enormous military power that the world has ever known. Who were we contending with? With a few half-starved, half-clothed, wretched Indians, and fugitive slaves. And, whilst carrying on this inglorious war,—inglorious as it regards the laurels or renown won in it,—we violate neutral rights, which the government had solemnly pledged itself to respect, upon the principle of convenience, or upon the light presumption that, by possibility, a post might be taken by this miserable combination of Indians and slaves.

On the 8th of April, the General writes from St. Marks, that he shall march for the Suwaney river; the destroying of the establishments on which will, in his opinion, bring the war to a close. Accordingly, having effected that object, he writes, on the 20th of April, that he believes he may say that the war is at an end for the present. He repeats the same opinion in his letter to the secretary of war, written six days after. The war being thus ended, it might have been hoped that no further hostilities would have been committed. But on the 23d of May, on his way home, he receives a letter from the commandant of Pensacola, intimating his surprise at the invasion of the Spanish territory, and the acts of hostility performed by the American army, and his determination, if persisted in, to employ force to repel them. Let us pause and examine this proceeding of the governor, so very hostile and affrontive in the view of General Jackson. Recollect that he was governor of Florida; that he had received no orders from his superiors, to allow a passage to the American army; that he had heard of the reduction of St. Marks; and that General Jackson, at the head of his army, was approaching in the direction of Pensacola. He had seen the president's message of the 25th of March, and reminded General Jackson of it, to satisfy him that the American government could not have authorized all those measures. Mr. C. said he could not read the allusion made by the governor to that message, without feeling that the charge of insincerity, which it implied, had at least but too much the appearance of truth in it. Could the governor have done less than write some such letter? We have only to reverse situations, and to suppose him to have been an American governor. General Jackson says, that when he received that letter, he no longer hesitated. No, sir, he did no longer hesitate. He received it on the 23d, he was in Pensacola on the 24th, and immediately after set himself before the fortress of San Carlos de Barancas, which he shortly reduced. *Veni, vidi, vici*. Wonderful energy! Admirable promptitude. Alas! that it had not been an energy and a promptitude within the pale of the constitution, and according to the orders of the chief magistrate! It was impossible to give any definition of war, that would not comprehend these acts. It was open, undisguised, and unauthorized hostility.

The honorable gentleman from Massachusetts had endeavored to derive some authority to General Jackson from the message of the President, and the letter of the Secretary of War to Gov.

Bibb. The message declares that the Spanish authorities are to be respected wherever maintained. What the President means by their being maintained, is explained in the orders themselves, by the extreme case being put of the enemy seeking shelter under a Spanish fort. If even in that case he was not to attack, certainly he was not to attack in any case of less strength. The letter to Gov. Bibb admits of a similar explanation. When the Secretary says, in that letter, that General Jackson is fully empowered to bring the Seminole war to a conclusion, he means that he is so empowered by his orders, which, being now before us, must speak for themselves. It does not appear that General Jackson ever saw that letter, which was dated at this place after the capture of St. Marks. He would take a momentary glance at the orders. On the 2d of December, 1817, General Gaines was forbidden to cross the Florida line. Seven days after, the Secretary of War, having arrived here, and infused a little more energy into our councils, he was authorized to use a sound discretion in crossing it or not. On the 16th, he was instructed again to consider himself at liberty to cross the line, and pursue the enemy; but, *if he took refuge under a Spanish fortress, the fact was to be reported to the department of war.* These orders were transmitted to General Jackson, and constituted, or ought to have constituted, his guide. There was then no justification for the occupation of Pensacola, and the attack on the Barancas, in the message of the President, the letter to Gov. Bibb, or in the orders themselves. The gentleman from Massachusetts would pardon him for saying that he had undertaken what even his talents were not competent to—the maintenance of directly contradictory propositions, that it was right in General Jackson to take Pensacola, and wrong in the President to keep it. The gentleman has made a greater mistake than he supposes General Jackson to have done in attacking Pensacola for an Indian town, by attempting the defence both of the President and General Jackson. If it were right in him to seize the place, it is impossible that it should have been right in the President immediately to surrender it. We, sir, are the supporters of the President. We regret that we cannot support General Jackson also. The gentleman's liberality is more comprehensive than ours. I approve, with all my heart, of the restoration of Pensacola. I think St. Marks ought, perhaps, to have been also restored; but I say this with doubt and diffidence. That the President thought the seizure of the Spanish posts was an act of war, is manifest from his opening message, in which he says that, to have retained them, would have changed our relations with Spain, to do which the power of the executive was incompetent, Congress alone possessing it. The President has, in this instance, deserved well of his country. He has taken the only course which he could have pursued, consistent with the constitution of the land. And he defied the gentleman to make good both his positions, that the General was right in taking,

and the President right in giving up the posts. (Mr. Holmes explained. We took these posts, he said, to keep them from the hands of the enemy, and, in restoring them, made it a condition that Spain should not let our enemy have them. We said to her, here is your dagger; we found it in the hands of our enemy, and, having wrested it from him, we restore it to you, in the hope that you will take better care of it for the future.) Mr. C. proceeded. The gentleman from Massachusetts was truly unfortunate; fact or principle was always against him. The Spanish posts were not in the possession of the enemy. One old Indian only was found in the Barancas, none in Pensacola, none in St. Marks. There was not even the color of a threat of Indian occupation as it regards Pensacola and the Barancas.—Pensacola was to be restored unconditionally, and might, therefore, immediately have come into the possession of the Indians, if they had the power and the will to take it. The gentleman was in a dilemma, from which there was no escape. He gave up General Jackson when he supported the President, and gave up the President when he supported General Jackson. Mr. C. said that he rejoiced to have seen the President manifesting by the restoration of Pensacola, his devotedness to the constitution. When the whole country was ringing with plaudits for its capture, he said, and he said alone, in the limited circle in which he moved, that the President must surrender it; that he could not hold it. It was not his intention, he said, to inquire whether the army was or was not constitutionally marched into Florida. It was not a clear question, and he was inclined to think that the express authority of Congress ought to have been asked. The gentleman from Massachusetts would allow him to refer to a part of the correspondence at Ghent different from that which he had quoted. He would find the condition of the Indians there accurately defined. And it was widely varied from the gentleman's ideas on this subject. The Indians, according to the statement of the American commissioners at Ghent, inhabiting the United States, have a qualified sovereignty only, the supreme sovereignty residing in the government of the United States. They live under their own laws and customs, may inhabit and hunt their lands; but acknowledge the protection of the United States, and have no right to sell their lands but to the government of the United States. Foreign powers or foreign subjects have no right to maintain any intercourse with them, without our permission. They are not, therefore, independent nations, as the gentleman supposed. Maintaining the relation described with them, we must allow a similar relation to exist between Spain and the Indians residing within her dominions. She must be, therefore, regarded as the sovereign of Florida, and we are accordingly treating with her for the purchase of it. In strictness, then, we ought first to have demanded of her to restrain the Indians, and, that failing, we should have demanded a right of passage for our army. But, if the Presi-

dent had the power to march an army into Florida without consulting Spain, and without the authority of Congress, he had no power to authorize any act of hostility against her. If the gentleman had even succeeded in showing that an authority was conveyed by the executive to General Jackson to take the Spanish posts, he would only have established that unconstitutional orders had been given, and thereby transferred the disapprobation from the military officer to the executive. But no such orders were, in truth, given. The President had acted in conformity to the constitution, when he forbade the attack of a Spanish fort, and when, in the same spirit, he surrendered the posts themselves.

He would not trespass much longer upon the time of the committee; but he trusted he should be indulged with some few reflections upon the danger of permitting the conduct on which it had been his painful duty to animadvert, to pass, without a solemn expression of the disapprobation of this House. Recal to your recollection, said he, the free nations which have gone before us. Where are they now?

Gone glimmering through the dream of things that were,  
A school boy's tale, the wonder of an hour.

And how have they lost their liberties? If we could transport ourselves back to the ages when Greece and Rome flourished in their greatest prosperity, and, mingling in the throng, should ask a Grecian if he did not fear that some daring military chieftain, covered with glory, some Philip or Alexander, would one day overthrow the liberties of his country? the confident and indignant Grecian would exclaim, no! no! we have nothing to fear from our heroes; our liberties will be eternal. If a Roman citizen had been asked, if he did not fear that the conqueror of Gaul might establish a throne upon the ruins of public liberty, he would have instantly repelled the unjust insinuation. Yet Greece had fallen, Cæsar had passed the Rubicon, and the patriotic arm even of Brutus could not preserve the liberties of his devoted country! The celebrated Madame de Stael, in her last and perhaps her best work, has said, that in the very year, almost the very month, when the President of the Directory declared that monarchy would never more show its frightful head in France, Bonaparte, with his grenadiers, entered the palace of St. Cloud, and dispersing, with the bayonet, the deputies of the people, deliberating on the affairs of the state, laid the foundation of that vast fabric of despotism which overshadowed all Europe. He hoped not to be misunderstood; he was far from intimating that General Jackson cherished any designs inimical to the liberties of the country. He believed his intentions to be pure and patriotic. He thanked God that he would not, but he thanked him still more that he could not, if he would, overturn the liberties of the republic. But precedents, if bad, were fraught with



the most dangerous consequences. Man has been described, by some of those who have treated of his nature, as a bundle of habits. The definition was much truer when applied to governments. Precedents were their habits. There was one important difference between the formation of habits by an individual and by governments. He contracts it only after frequent repetition. A single instance fixes the habit and determines the direction of governments. Against the alarming doctrine of unlimited discretion in our military commanders, when applied even to prisoners of war, he must enter his protest. It began upon them; it would end on us. He hoped our happy form of government was destined to be perpetual. But, if it were to be preserved, it must be by the practice of virtue, by justice, by moderation, by magnanimity, by greatness of soul, by keeping a watchful and steady eye on the executive; and, above all, by holding to a strict accountability the military branch of the public force.

We are fighting, said Mr. C., a great moral battle, for the benefit not only of our country, but of all mankind. The eyes of the whole world are in fixed attention upon us. One, and the largest portion of it, is gazing with contempt, with jealousy, and with envy; the other portion, with hope, with confidence, and with affection. Every where the black cloud of legitimacy is suspended over the world, save only one bright spot, which breaks out from the political hemisphere of the west, to enlighten and animate, and gladden the human heart. Obscure that, by the downfall of liberty here, and all mankind are enshrouded in a pall of universal darkness. To you, Mr. Chairman, belongs the high privilege of transmitting, unimpaired, to posterity, the fair character and liberty of our country. Do you expect to execute this high trust, by trampling, or suffering to be trampled down, law, justice, the constitution, and the rights of other people? By exhibiting examples of inhumanity, and cruelty and ambition? When the minions of despotism heard, in Europe, of the seizure of Pensacola, how did they chuckle, and chide the admirers of our institutions, tauntingly pointing to the demonstration of a spirit of injustice and aggrandizement made by our country, in the midst of amicable negotiation. Behold, said they, the conduct of those who are constantly reproaching kings. You saw how those admirers were astounded and hung their heads. You saw too, when that illustrious man, who presides over us, adopted his pacific, moderate and just course, how they once more lifted up their heads with exultation and delight beaming in their countenances. And you saw how those minions themselves were finally compelled to unite in the general praises bestowed upon our government. Beware how you forfeit this exalted character. Beware how you give a fatal sanction, in this infant period of our republic, scarcely yet two score years old, to military insubordination. Remember that Greece had her Alexander, Rome her Cæsar, England her Cromwell, France her Bonaparte, and that



if we would escape the rock on which they split we must avoid their errors.

How different has been the treatment of General Jackson, and that modest but heroic young man, a native of one of the smallest states in the Union, who achieved for his country, on Lake Erie, one of the most glorious victories of the late war. In a moment of passion he forgot himself, and offered an act of violence which was repented of as soon as perpetrated. He was tried, and suffered the judgment to be pronounced by his peers. Public justice was thought not even then to be satisfied. The press and Congress took up the subject. My honorable friend from Virginia (Mr. Johnson) the faithful and consistent sentinel of the law and of the constitution, disapproved in that instance; as he does in this, and moved an inquiry. The public mind remained agitated and unappeased until the recent atonement so honorably made by the gallant commodore. And was there to be a distinction between the officers of the two branches of the public service? Are former services, however eminent, to preclude even inquiry into recent misconduct? Is there to be no limit, no prudential bounds to the national gratitude? He was not disposed to censure the President for not ordering a court of inquiry or a general court martial. Perhaps, impelled by a sense of gratitude, he determined by anticipation to extend to the General that pardon which he had the undoubted right to grant after sentence. Let us, said Mr. C., not shrink from our duty. Let us assert our constitutional powers, and vindicate the instrument from military violation.

He hoped gentlemen would deliberately survey the awful isthmus on which we stand. They may bear down all opposition; they may even vote the General the public thanks; they may carry him triumphantly through this house. But, if they do, in my humble judgment, it will be a triumph of the principle of insubordination—a triumph of the military over the civil authority—a triumph over the powers of this house—a triumph over the constitution of the land. And he prayed most devoutly to heaven, that it might not prove, in its ultimate effects and consequences, a triumph over the liberties of the people.

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## ON THE TARIFF.

*Speech on the Tariff, delivered in the House of Representatives, 26th April, 1820.*

MR. CHAIRMAN,

Whatever may be the value of my opinions on the interesting subject now before us, they have not been hastily formed. It may possibly be recollected by some gentlemen, that I expressed them when the existing tariff was adopted; and that I then urged, that the period of the termination of the war, during which the manufacturing industry of the country had received a powerful spring, was precisely that period when government was alike impelled, by duty and interest, to protect it against the free admission of foreign fabrics, consequent upon a state of peace. I insisted, on that occasion, that a less measure of protection would prove more efficacious, at that time, than one of greater extent at a future day. My wishes prevailed only in part; and we are now called upon to decide whether we will correct the error which, I think, we then committed.

In considering the subject, the first important inquiry that we should make is, whether it be desirable that such a portion of the capital and labor of the country should be employed, in the business of manufacturing as would furnish a supply of our necessary wants? Since the first colonization of America, the principal direction of the labor and capital of the inhabitants has been to produce raw materials for the consumption or fabrication of foreign nations. We have always had, in great abundance, the means of subsistence, but we have derived chiefly from other countries our clothes, and the instruments of defence. Except during those interruptions of commerce arising from a state of war, or from measures adopted for vindicating our commercial rights, we have experienced no very great inconvenience heretofore from this mode of supply. The limited amount of our surplus produce, resulting from the smallness of our numbers, and the long and arduous convulsions of Europe, secured us good markets for that surplus in her ports or those of her colonies. But those convulsions have now ceased, and our population has reached nearly ten millions. A new epoch has arisen; and it becomes us deliberately to contemplate our own actual condition, and the relations which are likely to exist between us and the other parts of the world. The actual state of our population, and the ratio of its progressive increase when compared with the ratio of the increase of the population of the countries which have hitherto consumed our raw produce, seem, to me, alone to demonstrate the necessity of diverting some portion of our industry from its accustomed channel. We double our population in about the term of twenty-five years. If there be no change in the mode of exerting our industry, we shall double, during the

same term, the amount of our exportable produce. Europe, including such of her colonies as we have free access to, taken altogether, does not duplicate her population in a shorter term, probably, than one hundred years. The ratio of the increase of her capacity of consumption, therefore, is, to that of our capacity of production, as one is to four. And it is manifest, from the simple exhibition of the powers of the consuming countries, compared with those of the supplying country, that the former are inadequate to the latter. It is certainly true, that a portion of the mass of our raw produce, which we transmit to her, reverts to us in a fabricated form, and that this return augments with our increasing population. This is, however, a very inconsiderable addition to her actual ability to afford a market for the produce of our industry.

I believe that we are already beginning to experience the want of capacity in Europe to consume our surplus produce. Take the great articles of cotton, tobacco, and bread-stuffs. For the latter we have scarcely any foreign demand. And is there not reason to believe that we have reached, if we have not passed, the maximum of the foreign demand for the other two articles? Considerations connected with the cheapness of cotton, as a raw material, and the facility with which it can be fabricated, will probably make it be more and more used as a substitute for other materials. But, after you allow to the demand for it, the utmost extension of which it is susceptible, it is yet quite *limited*—limited by the number of persons who use it, by their wants, and their ability to supply them. If we have not reached, therefore, the maximum of the foreign demand, (as I believe we have) we must soon fully satisfy it. With respect to tobacco, that article affording an enjoyment not necessary, as food and clothes are, to human existence, the foreign demand for it is still more precarious, and I apprehend that we have already passed its limits. It appears to me, then, that, if we consult our interest merely, we ought to encourage home manufactures. But there were other motives to recommend it, of not less importance.

The wants of man may be classed under three great heads—food, raiment, and defence. They are felt alike in the state of barbarism and of civilization. He must be defended against the ferocious beasts of prey in the one condition, and against the ambition, violence, and injustice, incident to the other. If he seeks to obtain a supply of those wants without giving an equivalent, he is a beggar or a robber; if, by promising an equivalent which he cannot give, he is fraudulent; and if, by a commerce, in which there is perfect freedom on his side, whilst he meets with nothing but restrictions on the other, he submits to an unjust and degrading inequality. What is true of individuals is equally so of nations. The country, then, which relies upon foreign nations for either of those great essentials, is not, in fact, independent. Nor is it any consolation for our dependence upon other nations, that they also are dependent upon us, even were it true.

Every nation should anxiously endeavor to establish its absolute independence, and consequently be able to feed and clothe and defend itself. If it rely upon a foreign supply, that may be cut off by the caprice of the nation yielding it, by war with it, or even by war with other nations, it cannot be independent. But it is not true that any other nations depend upon us in a degree any thing like equal to that of our dependence upon them for the great necessities to which I have referred. Every other nation seeks to supply itself with them from its own resources; and, so strong is the desire which they feel to accomplish this purpose, that they exclude the cheaper foreign article for the dearer home production. Witness the English policy in regard to corn. So selfish, in this respect, is the conduct of other powers, that, in some instances, they even prohibit the produce of the industry of their *own* colonies, when it comes into competition with the produce of the parent country. All other countries but our own exclude, by high duties, or absolute prohibitions, whatever they can respectively produce within themselves. The truth is, and it is in vain to disguise it, that we are a sort of independent colonies of England—politically free, commercially slaves. Gentlemen tell us of the advantages of a free exchange of the produce of the world. But they tell us of what has never existed, does not exist, and perhaps never will exist. They invoke us to give perfect freedom on our side, whilst in the ports of every other nation, we are met with a code of odious restrictions, shutting out entirely a great part of our produce, and letting in only so much as they cannot possibly do without. I will hereafter examine their favorite maxim, of leaving things to themselves, more particularly. At present I will only say that I too am a friend to free trade, but it must be a free trade of perfect reciprocity. If the governing consideration were cheapness; if national independence were to weigh nothing; if honor nothing; why not subsidize foreign powers to defend us? why not hire Swiss or Hessian mercenaries to protect us? why not get our arms of all kinds, as we do, in part, the blankets and clothing of our soldiers, from abroad? We should probably consult economy by these dangerous expedients.

But, say gentlemen, there are to the manufacturing system some inherent objections, which should induce us to avoid its introduction into this country: and we are warned by the example of England, by her pauperism, by the vices of her population, her wars, &c. It would be a strange order of Providence, if it were true, that He should create necessary and indispensable wants, and yet should render us unable to supply them without the degradation or contamination of our species.

Pauperism is, in general, the effect of an overflowing population. Manufactures may undoubtedly produce a redundant population; but so may commerce, and so may agriculture. In this respect they are alike; and, from whatever cause the disproportion of a population to the subsisting faculty of a country

may proceed, its effect of pauperism is the same. Many parts of Asia would exhibit, perhaps, as afflicting effects of an extreme prosecution of the agricultural system, as England can possibly furnish, respecting the manufacturing. It was, not, however, fair to argue from these extreme cases, against either the one system or the other. There are abuses incident to every branch of industry, to every profession. It would not be thought very just or wise to arraign the honorable professions of law and physic, because the one produces the pettifogger, and the other the quack. Even in England it has been established, by the diligent search of Colquhoun, from the most authentic evidence, the judicial records of the country, that the instances of crime were much more numerous in the agricultural than in the manufacturing districts; thus proving that the cause of wretchedness and vice, in that country, was to be sought for, not in this or that system, so much as in the fact of the density of its population. France resembles this country more than England, in respect to the employments of her population; and we do not find that there is any thing in the condition of the manufacturing portion of it which ought to dissuade us from the introduction of it into our own country. But even France has not that great security against the abuses of the manufacturing system, against the effects of too great a density of population, which we possess in our waste lands. Whilst this resource exists, we have nothing to apprehend. Do capitalists give too low wages—are the laborers too crowded, and in danger of starving—the unsettled lands will draw off the redundancy, and leave the others better provided for. If an unsettled province, such as Texas, for example, could, by some convulsion of nature, be waisted along side of, and attached to, the island of Great Britain, the instantaneous effect would be, to draw off the redundant portion of the population, and to render more comfortable both the emigrants and those whom they would leave behind. I am aware that, whilst the public domain is an acknowledged security against the abuses of the manufacturing, or any other system, it constitutes, at the same time, an impediment, in the opinion of some, to the success of manufacturing industry, by its tendency to prevent the reduction of the wages of labor. Those who urge this objection have their eyes too much fixed on the ancient system of manufacturing, when manual labor was the principal instrument which it employed. During the last half century, since the inventions of Arkwright, and the long train of improvements which followed, the labor of machinery is principally used. I have understood, from sources of information which I believe to be accurate, that the combined force of all the machinery employed by Great Britain, in manufacturing, is equal to the labor of one hundred millions of able-bodied men. If we suppose the aggregate of the labor of all the individuals which she employs in that branch of industry to be equal to the united labor of two millions of able-bodied men, (and I should think it does not

exceed it,) machine labor will stand to manual labor, in the proportion of one hundred to two. There cannot be a doubt that we have skill and enterprize enough to command the requisite amount of machine power.

There are, too, some checks to emigration from the settled parts of our country to the waste lands of the west. Distance is one, and it is every day becoming greater and greater. There exists, also, a natural repugnance (felt less, it is true, in the United States than elsewhere, but felt even here) to abandoning the place of our nativity. Women and children, who could not migrate, and who would be comparatively idle if manufactures did not exist, may be profitably employed in them. This is a very great benefit. I witnessed the advantage resulting from the employment of this description of our population, in a visit which I lately made to the Waltham manufactory, near Boston. There, some hundreds of girls and boys were occupied in separate apartments. The greatest order, neatness, and apparent comfort, reigned throughout the whole establishment. The daughters of respectable farmers—in one instance I remember the daughter of a Senator in the State Legislature—were usefully employed. They would come down to the manufactory, remain perhaps some months, and return, with their earnings, to their families, to assist them throughout the year. But one instance had occurred, I was informed by the intelligent manager, of doubtful conduct on the part of any of the females, and, after she was dismissed, there was reason to believe that injustice had been done her. Suppose that establishment to be destroyed, what would become of all the persons who are there engaged so beneficially to themselves, and so usefully to the State? Can it be doubted that, if the crowds of little mendicant boys and girls who infest this edifice, and assail us, every day, at its very thresholds, as we come in and go out, begging for a cent, were employed in some manufacturing establishment, it would be better for them and the city? Those who object to the manufacturing system, should recollect, that constant occupation is the best security for innocence and virtue, and that idleness is the parent of vice and crime. They should contemplate the laboring poor with employment, and ask themselves what would be their condition without it. If there are instances of hard taskmasters among the manufacturers, so also are there in agriculture. The cause is to be sought for, not in the nature of this or that system, but in the nature of man. If there are particular species of unhealthy employment in manufactures, so there are in agriculture also. There has been an idle attempt to ridicule the manufacturing system, and we have heard the expression "spinning jenny tenure." It is one of the noblest inventions of human skill. It has diffused comforts among thousands who, without it, would never have enjoyed them; and millions yet unborn will bless the man by whom it was invented. Three important inventions have distinguished the last half century, each

of which, if it had happened at long intervals of time from the other, would have been sufficient to constitute an epoch in the progress of the useful arts. The first was that of Arkwright; and our own country was entitled to the merit of the other two. The world is indebted to Whitney for the one, and to Fulton for the other. Nothing is secure against the shafts of ridicule.—What would be thought of a man who should speak of a cotton-gin tenure, or a steam-boat tenure?

In one respect there is a great difference in favor of manufactures, when compared with agriculture. It is the rapidity with which the whole manufacturing community avail themselves of an improvement. It is instantly communicated and put in operation. There is an avidity for improvement in the one system, an aversion from it in the other. The habits of generation after generation pass down the long track of time in perpetual succession, without the slightest change in agriculture. The ploughman who fastens his plough to the tails of his cattle, will not own that there is any other mode equal to his. An agricultural people will be in the neighborhood of other communities, who have made the greatest progress in husbandry, without advancing in the slightest degree. Many parts of our country are one hundred years in advance of Sweden in the cultivation and improvement of the soil.

It is objected, that the effect of the encouragement of home manufactures, by the proposed tariff, will be to diminish the revenue from the customs. The amount of the revenue from that source will depend upon the amount of importations, and the measure of these will be the value of the exports from this country. The quantity of the exportable produce will depend upon the foreign demand; and there can be no doubt that, under any distribution of the labor and capital of this country from the greater allurements which agriculture presents than any other species of industry, there would be always a quantity of its produce sufficient to satisfy that demand. If there be a diminution in the ability of foreign nations to consume our raw produce, in the proportion of our diminished consumption of theirs, under the operation of this system, that will be compensated by the substitution of a home to a foreign market, in the same proportion. It is true that we cannot remain in the relation of seller, only to foreign powers, for any length of time; but if, as I have no doubt, our agriculture will continue to supply, as far as it can profitably, to the extent of the limits of foreign demand, we shall receive not only in return many of the articles on which the tariff operates, for our own consumption, but they may also form the objects of trade with South America and other powers, and our comforts may be multiplied by the importation of other articles. Diminished consumption, in consequence of the augmentation of duties, does not necessarily imply diminished revenue. The increase of the duty may compensate the decrease in the consumption, and give you as large a revenue as you before possessed.



Can any one doubt the impolicy of government resting solely upon the precarious resource of such a revenue? It is constantly fluctuating. It tempts us, by its enormous amount, at one time, into extravagant expenditure; and we are then driven, by its sudden and unexpected depression, into the opposite extreme. We are seduced by its flattering promises into expenses which we might avoid; and we are afterwards constrained, by its treachery, to avoid expenses which we ought to make. It is a system under which there is a sort of perpetual war, between the interest of the government and the interest of the people. Large importations fill the coffers of government, and empty the pockets of the people. Small importations imply prudence on the part of the people, and leave the treasury empty. In war the revenue disappears; in peace it is unsteady. On such a system the government will not be able much longer exclusively to rely. We all anticipate that we shall have shortly to resort to some additional supply of revenue within ourselves. I was opposed to the total repeal of the internal revenue. I would have preserved certain parts of it at least, to be ready for emergencies such as now exist. And I am, for one, ready to exclude foreign spirits altogether, and substitute for the revenue levied on them a tax upon the spirits made within the country. No other nation lets in so much of foreign spirits as we do. By the encouragement of home industry you will lay a basis of internal taxation, when it gets strong, that will be steady and uniform, yielding alike in peace and in war. We do not derive our ability from abroad, to pay taxes. That depends upon our wealth and our industry; and it is the same whatever may be the form of levying the public contributions.

But it is urged, that you tax other interests of the state to sustain manufacturers. The business of manufacturing, if encouraged, will be open to all. It is not for the sake of the particular individuals, who may happen to be engaged in it, that we propose to foster it; but it is for the general interest. We think that it is necessary to the comfort and well being of society, that fabrication, as well as the business of production and distribution, should be supported and taken care of. Now, if it be even true, that the price of the home fabric will be somewhat higher, in the first instance, than the rival foreign articles, that consideration ought not to prevent our extending reasonable protection to the home fabric. Present temporary inconvenience may be well submitted to for the sake of future permanent benefit. If the experience of all other countries be not utterly fallacious; if the promises of the manufacturing system be not absolutely illusory, by the competition which will be elicited, in consequence of your parental care, prices will be ultimately brought down to a level with that of the foreign commodity. Now, in a scheme of policy which is devised for a nation, we should not limit our views to its operation, during a single year, or for even a short term of years. We should look at its operation for a considerable time,

and in war as well as in peace. Can there be a doubt, thus contemplating it, that we shall be compensated by the certainty and steadiness of the supply, in all seasons, and the ultimate reduction of the price for any temporary sacrifices we make? Take the example of salt, which the ingenious gentleman from Virginia, (Mr. Archer) has adduced. He says, during the war the price of that article rose to ten dollars per bushel, and he asks, if you would lay a duty, permanent in its duration, of three dollars per bushel to secure a supply in war. I answer, no, I would not lay so high a duty. That which is now proposed, for the encouragement of the domestic production, is only five cents per bushel. In forty years the duty would amount only to two dollars. If the recurrence of war, shall be only after intervals of forty years' peace, (and we may expect it probably oftener,) and if, when it does come, the same price should again be given, there will be a clear saving of eight dollars, by promoting the domestic fabrication. All society is an affair of mutual concession. If we expect to derive the benefits which are incident to it, we must sustain our reasonable share of burthens. The great interests which it is intended to guard and cherish, must be supported by their reciprocal action and reaction. The harmony of its parts is disturbed—the discipline which is necessary to its order is incomplete, when one of the three great and essential branches of its industry is abandoned and unprotected. If you want to find an example of order, of freedom from debt, of economy, of expenditure falling below, rather than exceeding income, you will go to the well regulated family of a farmer. You will go to the house of such a man as Isaac Shelby. You will not find him haunting taverns, engaged in broils, prosecuting angry law-suits. You will behold every member of his family clad with the produce of their own hands, and usefully employed; the spinning-wheel and the loom in motion by day break. With what pleasure will his wife carry you into her neat dairy, lead you into her store-house, and point you to the table cloths, the sheets, the counterpanes which lie on this shelf for one daughter, or on that for another, all prepared in advance by her provident care for the day of their respective marriages. If you want to see an opposite example, go to the house of a man who manufactures nothing at home, whose family resorts to the store for every thing they consume. You will find him perhaps in the tavern, or at the shop at the cross roads. He is engaged, with the rum grog on the table, taking depositions to make out some case of usury or fraud. Or perhaps he is furnishing to his lawyer the materials to prepare a long bill of injunction in some intricate case. The sheriff is hovering about his farm to serve some new writ. On court days,—he never misses attending them—you will find him eagerly collecting his witnesses to defend himself against the merchant's and doctor's claims. Go to his house, and, after the short and giddy period that his wife and daughters have flirted about the country in their calico and muslin frocks,

what a scene of discomfort and distress is presented to you there ! What the individual family of Isaac Shelby is, I wish to see the nation in the aggregate become. But I fear we shall shortly have to contemplate its resemblance in the opposite picture. If statesmen would carefully observe the conduct of private individuals in the management of their own affairs, they would have much surer guides, in promoting the interests of the state, than the visionary speculations of theoretical writers.

The manufacturing system is not only injurious to agriculture, but, say its opponents, it is injurious also to foreign commerce. We ought not to conceal from ourselves our present actual position in relation to other powers. During the protracted war which has so long convulsed all Europe, and which will probably be succeeded by a long peace, we transacted the commercial business of other nations, and largely shared with England, the carrying trade of the world. Now, every other nation is anxiously endeavoring to transact its own business, to rebuild its marine and to foster its navigation. The consequence of the former state of things was, that our mercantile marine and our commercial employment were enormously disproportionate to the exchangeable domestic produce of our country. And the result of the latter will be, that, as the exchanges between this country and other nations will hereafter consist principally, on our part, of our domestic produce, that marine and that employment will be brought down to what is necessary to effect those exchanges. I regret exceedingly this reduction. I wish the mercantile class could enjoy the same extensive commerce that they formerly did. But, if they cannot, it would be a folly to repine at what is irrecoverably lost, and we should seek rather to adapt ourselves to the new circumstances in which we find ourselves. If, as I think, we have reached the maximum of our foreign demand for our three great staples, cotton, tobacco, and flour, no man will contend that we should go on to produce more and more, to be sent to the glutted foreign market, and consumed by devouring expenses, merely to give employment to our tonnage and to our foreign commerce. It would be extremely unwise to accommodate our industry to produce, not what was wanted abroad ; but cargoes for our unemployed ships. I would give our foreign trade every legitimate encouragement, and extend it whenever it can be extended profitably. Hitherto it had been stimulated too highly, by the condition of the world, and our own policy acting on that condition. And we are reluctant to believe that we must submit to its necessary abridgment. The habits of trade ; the tempting instances of enormous fortunes which had been made by the successful prosecution of it, were such that we turn with regret from its pursuit ; we still cherish a lingering hope ; we persuade ourselves that something will occur, how and what it may be, we know not, to revive its former activity ; and we would push into every untried channel, grope through the Dardanelles into the Black Sea, to restore its former profits. I

repeat it, let us proclaim to the people of the United States the incontestible truth, that our foreign trade must be circumscribed by the altered state of the world; and, leaving it in the possession of all the gains which it can now possibly make, let us present motives to the capital and labor of our country to employ themselves in fabrication at home. There was no danger that, by a withdrawal of that portion which is unprofitably employed on other objects, and an application of it to fabrication, our agriculture would be too much cramped. The produce of it would always come up to the foreign demand. Such were the superior allurements belonging to the cultivation of the soil to all other branches of industry, that it would always be preferred when it can profitably be followed. The foreign demand would, in any conceivable state of things, limit the amount of the exportable produce of agriculture. The amount of our exportations would form the measure of our importations, and, whatever these may be, they will constitute the basis of the revenue derivable from customs.

The manufacturing system is favorable to the maintenance of peace. Foreign commerce is the great source of foreign wars. The eagerness with which we contend for every branch of it; the temptations which it offers, operating alike upon us and our foreign competitors, produce constant collisions. No country on earth, by the extent of its superficies, the richness of its soil, the variety of its climate, contains within its own limits more abundant facilities for supplying all our rational wants than ours does. It is not necessary or desirable, however, to cut off all intercourse with foreign powers. But, after securing a supply, within ourselves, of all the great essentials of life, there will be ample scope still left for preserving such an intercourse. If we had no intercourse with foreign states, if we adopted the policy of China, we should have no external wars. And in proportion as we diminish our dependence upon them, shall we lessen the danger of the recurrence of war. Our late war would not have existed if the counsels of the manufacturers in England had been listened to. They finally did prevail, in their steady and persevering effort to produce a repeal of the orders in council; but it was too late to prevent the war. Those who attribute to the manufacturing system the burthens and misfortunes of that country, commit a great error. These were probably a joint result of the operation of the whole of her systems, and the larger share of it was to be ascribed to her foreign commerce, and to the ambition of her rulers, than to any other cause. The war of our revolution, in which that ambition displayed its monstrous arrogance and pretensions, laid the broad foundation of that enormous debt under which she now groans.

The tendency of reasonable encouragement to our home industry, is favorable to the preservation and strength of our confederacy. Now our connexion is merely political. For the sale of the surplus of the produce of our agricultural labor, all eyes

are constantly turned upon the markets of Liverpool. There is scarcely any of that beneficial intercourse, the best basis of political connexion which consists of the exchange of the produce of our labor. On our maritime frontier there has been too much stimulus, an unnatural activity; in the great interior of the country, there exists a perfect paralysis. Encourage fabrication at home, and there would instantly arise animation and a healthful circulation throughout all the parts of the republic. The cheapness, fertility, and quantity of our waste lands, offered such powerful inducements to cultivation, that our countrymen are constantly engaging in it. I would not check this disposition by hard terms in the sale of it. Let it be easily accessible to all who wish to acquire it. But I would countervail this predilection by presenting to capital and labor, motives for employment in other branches of industry. Nothing is more uncertain than the pursuit of agriculture, when we mainly rely upon foreign markets for the sale of its surplus produce. In the first place, it is impossible to determine, *a priori*, the amount of this surplus; and, in the second, it is equally impossible to anticipate the extent of the foreign demand. Both the one and the other depend upon the seasons. From the fluctuations incident to these, and from other causes, it may happen that the supplying country will for a long series of years, have employed a larger share of its capital and labor than is wise, in production to supply the wants of the consuming countries, without becoming sensible of its defect of policy. The failure of a crop, or the failure of a market, does not discourage the cultivator. He renews his labors another year, and he renews his hopes. It is otherwise with manufacturing industry. The precise quantum of its produce, at least, can with some accuracy be previously estimated. And the wants of foreign countries can be with some probability anticipated.

I am sensible, Mr. Chairman, if I have even had a success, which I dare not presume, in the endeavor I have been making to show that sound policy requires a diversion of so much of the capital and labor of this country from other employments as may be necessary, by a different application of them, to secure, within ourselves, a steady and adequate supply of the great necessities of life, I shall have only established one half of what is incumbent upon me to prove. It will still be required by the other side, that a second proposition be supported, and that is, that government ought to present motives for such a diversion and new application of labor and capital, by that species of protection which the tariff holds out. Gentlemen say, we agree with you; you are right in your first proposition, but, "let things alone," and they will come right in the end. Now, I agree with them, that things would ultimately get right: but not until after a long period of disorder and distress, terminating in the impoverishment, and perhaps ruin of the country. Dissolve government, reduce it to its primitive elements, and, without any gene-

ral effort to reconstruct it, there would arise, out of the anarchy which would ensue, partial combinations for the purpose of individual protection, which would finally lead to a social form, competent to the conservation of peace within, and the repulsion of force from without. Yet no one would say, in such a state of anarchy, let things alone! If gentlemen, by their favorite maxim, mean only that, within the bosom of the state, things are to be left alone, and each individual, and each branch of industry, allowed to pursue their respective interests, without giving a preference to either, I subscribe to it. But if they give it a more comprehensive import; if they require that things be left alone, in respect not only to interior action, but to exterior action also; not only as regards the operation of our own government upon the mass of the interests of the state, but as it relates to the operation of foreign governments upon that mass, I dissent from it.

This maxim, in this enlarged sense, is indeed every where proclaimed; but no where practised. It is truth in the books of European political economists. It is error in the practical code of every European state. It is not applied where it is most applicable; it is attempted to be introduced here, where it is least applicable; and even here its friends propose to limit it to the single branch of manufacturing industry, whilst every other interest is encouraged and protected according to the policy of Europe. The maxim would best suit Europe, where each interest is adjusted and arranged to every other, by causes operating during many centuries. Every thing there has taken and preserved its ancient position. The house that was built centuries ago, is occupied by the descendants of its original constructor. If one could rise up, after the lapse of ages, and enter a European shop, he would see the same hammer at work, on the same anvil or last, and almost by the same hand. There every thing has found its place and its level, and every thing, one would think, might there be safely left alone. But the policy of the European state is otherwise. Here every thing is new and unfixed. Neither the state, nor the individuals who compose it, have settled down in their firm and permanent positions. There is a constant tendency, in consequence of the extent of our public domain, towards production for foreign markets. The maxim, in the comprehensive sense in which I am considering it, requires, to entitle it to observation, two conditions, neither of which exists. First, that there should be perpetual peace, and secondly, that the maxim should be every where respected. When war breaks out, that free and general circulation of the produce of industry among the nations which it recommends, is interrupted, and the nation that depends upon a foreign supply of its necessaries, must be subjected to the greatest inconvenience. If it be not every where observed, there will be, between the nation that does not, and the nation that does, conform to it, an inequality alike condemned by honor and by interest. If there be no reciprocity; if, on the one side, there is perfect freedom of trade, and on the



other a code of odious restrictions, will gentlemen still contend that we are to submit to such an unprofitable and degrading intercourse? Will they require that we shall act upon the social system, whilst every other power acts upon the selfish? Will they demand of us to throw widely open our ports to every nation, whilst all other nations entirely or partly exclude theirs against our productions? It is, indeed, possible, that some pecuniary advantage might be enjoyed by our country in prosecuting the remnant of the trade which the contracted policy of other powers leaves to us. But what security is there for our continuing to enjoy even that? And, is national honor, is national independence to count as nothing? I will not enter into a detail of the restrictions with which we are every where presented in foreign countries. I will content myself with asserting that they take nothing from us which they can produce themselves, upon even worse terms than we could supply them. Take, again, as an example, the English corn laws. America presents the image of a fine generous hearted young fellow, who has just come to the possession of a rich estate—an estate, which, however, requires careful management. He makes nothing; he buys everything. He is surrounded by a parcel of Jews, each holding out his hand with a packet of buttons or pins, or some other commodity, for sale. If he asks those Jews to buy any thing which his estate produces, they tell him no; it is not for our interest; it is not for yours. Take this new book, says one of them, on political economy, and you will there perceive it is for your interest to buy from us, and to let things alone in your own country. The gentleman from Virginia, to whom I have already referred, has surrendered the whole argument, in the example of the East India trade. He thinks that because India takes nothing but specie from us; because there is not a reciprocal exchange between us and India, of our respective productions, that the trade ought to be discontinued. Now I do not agree with him, that it ought to be abandoned, though I would put it under considerable restrictions, when it comes in competition with the fabrics of our own country. If the want of entire reciprocity be a sufficient ground for the total abandonment of a particular branch of trade, the same principle requires that, where there are some restrictions on the one side, they should be countervailed by equal restrictions on the other.

But this maxim, according to which gentlemen would have us abandon the home industry of the country, to the influence of the restrictive systems of other countries, without an effort to protect and preserve it, is not itself observed by the same gentlemen, in regard to the great interests of the nation. We protect our fisheries by bounties and drawbacks. We protect our tonnage, by excluding a restricting foreign tonnage, exactly as our tonnage is excluded or restricted by foreign states. We passed, a year or two ago, the bill to prohibit British navigation from the West India colonies of that power to the United States,



because ours is shut out from them. The session prior to the passage of that law, the gentleman from South Carolina and I, almost alone, urged the House to pass it. But the subject was postponed until the next session, when it was passed by nearly a unanimous vote, the gentleman from South Carolina, and the two gentlemen from Virginia, (Messrs. Barbour and Tyler,) voting with the majority. We have now upon our table other bills connected with that object, and proposing restriction upon the French tonnage to countervail theirs upon ours. I shall, with pleasure, vote for these measures. We protect our foreign trade, by consuls, by foreign ministers, by embargoes, by non-intercourse, by a navy, by fortifications, by squadrons constantly acting abroad, by war, and by a variety of commercial regulations in our statute book. The whole system of the general government, from its first formation to the present time, consists, almost exclusively, in one unremitting endeavor to nourish, and protect, and defend the foreign trade. Why have not all these great interests been left to the operation of the gentlemen's favorite maxim? Sir, it is perfectly right that we should have afforded this protection. And it is perfectly right, in my humble opinion, that we should extend the principle to the home industry. I am a friend to foreign trade, but I protest against its being the monopolist of all the parental favor and care of this government.

But, sir, friendly as I am to the existence of domestic manufactures, I would not give to them unreasonable encouragement, by protecting duties. Their growth ought to be gradual, but sure. I believe all the circumstances of the present period highly favorable to their success. But they are the youngest and the weakest interest of the state. Agriculture wants but little or no protection against the regulations of foreign powers. The advantages of our position, and the cheapness and abundance and fertility of our land, afford to that greatest interest of the state almost all the protection it wants. As it should be, it is strong and flourishing; or, if it be not, at this moment, prosperous, it is not because its produce is not ample, but because, depending, as we do altogether upon a foreign market for the sale of the surplus of that produce, the foreign market is glutted. Our foreign trade having almost exclusively engrossed the protecting care of government, wants no further legislative aid. And, whatever depression it may now experience, it is attributable to causes beyond the control of this government. The abundance of capital, indicated by the avidity with which loans are sought, at the reduced rate of five per centum; the reduction in the wages of labor, and the decline in the price of property of every kind, as well as that of agricultural produce, all concur favorably for domestic manufactures. Now, as when we arranged the existing tariff, is the auspicious moment for government to step in and cheer and countenance them. We did too little then, and I endeavored to warn this House of the effects of inadequate protection. We were called upon, at that time, by the previous

pledges we had given, by the inundation of foreign fabrics, which was to be anticipated from their free admission after the termination of the war, and by the lasting interests of this country, to give them efficient support. We did not do it; but let us not now repeat the error. Our great mistake has been in the irregularity of the action of the measures of this government upon manufacturing industry. At one period it is stimulated too high, and then, by an opposite course of policy, it is precipitated into a condition of depression too low. First there came the embargo; then non-intercourse, and other restrictive measures followed, and finally, that greatest of all stimuli to domestic fabrication, war. During all that long period, we were adding, to the positive effect of the measures of government, all the moral encouragement which results from popular resolves, legislative resolves, and other manifestations of the public will and the public wish to foster our home manufactures, and to render our confederacy independent of foreign powers. The peace ensued, and the country was flooded with the fabrics of other countries; and we, forgetting all our promises, coolly and philosophically talk of leaving things to themselves; making up our deficiency of practical good sense, by the stores of learning which we collect from theoretical writers. I, too, sometimes amuse myself with the visions of these writers, (as I do with those of metaphysicians and novelists,) and, if I do not forget, one of the best among them, enjoins it upon a country to protect its industry against the injurious influence of the prohibitions and restrictions of foreign countries, which operate upon it.

Monuments of the melancholy effects, upon our manufactures, and of the fluctuating policy of the councils of the Union in regard to them, abound in all parts of the country. Villages, and parts of villages, which sprung up but yesterday in the western country, under the excitement to which I have referred, have dwindled into decay, and are abandoned. In New-England, in passing along the highway, one frequently sees large and spacious buildings, with the glass broken out of the windows, the shutters hanging in ruinous disorder, without any appearance of activity, and enveloped in solitary gloom. Upon inquiring what they are, you are almost always informed that they were some cotton or other factory, which their proprietors could no longer keep in motion against the overwhelming pressure of foreign competition. Gentlemen ask for *facts* to show the expediency and propriety of extending protection to our manufactures. Do they want stronger evidence than the condition of things I have pointed out? They ask why the manufacturing industry is not resumed under the encouraging auspices of the present time? Sir, the answer is obvious; there is a general dismay; there is a want of heart; there is the greatest moral discouragement experienced throughout the nation. A man who engages in the manufacturing business is thought by his

friends to be deranged. Who will go to the ruins of Carthage or Balbec to rebuild a city there? Let government commence a systematic but moderate support of this important branch of our industry. Let it announce its fixed purpose, that the protection of manufactures against the influence of the measures of foreign governments, will enter into the scope of our national policy. Let us substitute, to the irregular action of our measures, one that shall be steady and uniform; and hope and animation and activity will again revive. The gentleman from South Carolina, (Mr. Lowndes,) offered a resolution, which the House rejected, having for its object to ascertain the profits now made upon capital employed in manufacturing. It is not, I repeat it, the individuals, but the interests we wish to have protected. From the infinite variety of circumstances under which different manufacturing establishments are situated, it is impossible that any information, such as the gentleman desires, could be obtained, that ought to guide the judgment of this House. It may happen that, of two establishments engaged in the same species of fabrication, one will be prospering and the other laboring. Take the example of the Waltham manufactory near Boston, and that of Brunswick in Maine. The former has the advantages of a fine water situation, a manager of excellent information, enthusiastically devoted to its success, a machinist of most inventive genius, who is constantly making some new improvement, and who has carried the water loom to a degree of perfection which it has not attained in England—to such perfection as to reduce the cost of weaving a yard of cloth adapted to shirting to less than a cent per yard—while it is abundantly supplied with capital by several rich capitalists in Boston. These gentlemen have the most extensive correspondence with all parts of the United States. Owing to this extraordinary combination of favorable circumstances, the Waltham establishment is doing pretty well; whilst that of Brunswick, not possessing all of them, but perhaps as many as would enable it, under adequate protection, to flourish, is laboring arduously. Would gentlemen infer, from the success of a few institutions having peculiar advantages, which form exceptions to the languishing condition of manufacturing industry, that there exists no necessity for protection? In the most discouraging state of trade and navigation, there were, no doubt, always some individuals who were successful in prosecuting them. Would it be fair to argue, from these instances, against any measure brought forward to revive their activity?

The gentleman from Massachusetts, (Mr. Whitman) has manifested peculiar hostility to the tariff, and has allowed himself to denominate it a mad, quixotic, ruinous scheme. The gentleman is dissatisfied with the quarter—the west—from which it emanates. To give higher tone and more effect to the gentleman's declamation, which is vague and indefinite, he has even assumed a new place in this house. Sir, I would advise the gentleman to return to his ancient position, moral and

physical. It was respectable and useful. The honorable gentleman professes to be a friend to manufacturers! And yet he has found an insurmountable constitutional impediment to their encouragement, of which, as no other gentleman has relied upon it, I shall leave him in the undisturbed possession. The honorable gentleman, a friend to manufacturers! And yet he has delivered a speech, marked with peculiar emphasis, against their protection. The honorable gentleman, a friend to manufacturers! And yet he requires, if this constitutional difficulty could be removed, such an arrangement of the tariff as shall please him, although every one else should be dissatisfied. The intimation is not new of the presumptuousness of western politicians, in endeavoring to give to the policy of this country such a direction as will assert its honor and sustain its interests. It was first made whilst the measures preparatory to the late war were under consideration, and it now probably emanates from the same quarter. The predeliction of the school of the Essex junto for foreign trade and British fabrics—I am far from insinuating that other gentlemen who are opposed to the tariff are actuated by any such spirit—is unconquerable. We disregarded the intimation when it was first made; we shall be uninfluenced by it now. If, indeed, there were the least color for the assertion, that the foreign trade is to be crushed by the tariff, is it not strange that the whole of the representation from all our great commercial metropolises should unite to destroy it? The member from Boston,—to whose rational and disinterested course I am happy, on this, as on many other occasions, to be able to testify,—the representatives from the city of New-York, from Philadelphia, from Baltimore, all entered into this confederacy, to destroy it, by supporting this mad and ruinous scheme. Some gentlemen assert that it is too comprehensive. But its chief recommendation to me is, that it leaves no important interest unprovided for.

The same gentlemen, or others, if it had been more limited, would have objected to its partial operation. The general measure of the protection which it communicates, is pronounced to be immoderate and enormous. Yet no one ventures to enter into a specification of the particular articles of which it is composed, to show that it deserves thus to be characterized. The article of molasses has, indeed, been selected, and held up as an instance of the alleged extravagance. The existing tariff imposes a duty of five cents; the proposed tariff ten cents per gallon. We tax foreign spirits very high, and yet we let in, with a very low duty, foreign molasses, which ought to be considered as rum in disguise, filling the space of so much domestic spirits. If, (which I do not believe will immediately be the case, to any considerable extent,) the manufacture of spirits from molasses should somewhat decline under the new tariff, the manufacture of spirits from the raw material, produced at home, will be extended in the same ratio. Besides the incidental advantage of

increasing our security against the effect of seasons of scarcity, by increasing the distillation of spirits from grain, there was scarcely any item in the tariff which combined so many interests in supporting the proposed rate of duty. The grain growing country, the fruit country and the culture of cane, would be all benefitted by the duty. Its operation is said, however to be injurious to a certain quarter of the Union. It was not to be denied that each particular section of the country would feel some one or more articles of the tariff to bear hard upon it, during a short period ; but the compensation was to be found in the more favorable operation of others. Now I am fully persuaded that, in the first instance, no part of the Union would more largely than New England, share in the aggregate of the benefits resulting from the tariff. But the habits of economy of her people, their industry, their skill, their noble enterprise, the stimulating effects of their more rigorous climate, all tend to ensure to her the first and the richest fruits of the tariff. The middle and the western states would come in afterwards for their portion, and all would participate in the advantage of internal exchanges and circulation. No quarter of the Union could urge, with a worse grace than New England, objections to a measure, having for its object the advancement of the interests of the whole ; for no quarter of the Union participated more extensively in the benefits flowing from the general government. Her tonnage, her fisheries, her foreign trade, have been constantly objects of federal care. There was expended the greatest portion of the public revenue. The building of the public ships ; their equipments ; the expenses incident to their remaining in port, chiefly took place there. That great drain on the revenue, the revolutionary pension law, inclined principally towards New England. I do not however complain of these advantages which she enjoys. She is probably fairly entitled to them. But gentlemen from that quarter may, at least, be justly reminded of them, when they complain of the onerous effect of one or two items of the tariff.

Mr. Chairman, I frankly own that I feel great solicitude for the success of this bill. The entire independence of my country on all foreign states, as it respects a supply of our essential wants, has ever been with me a favorite object. The war of our revolution effected our political emancipation. The last war contributed greatly towards accomplishing our commercial freedom. But our complete independence will only be consummated after the policy of this bill shall be recognized and adopted. We have indeed great difficulties to contend with ; old habits—colonial usages—the obduracy of the colonial spirit—the enormous profits of a foreign trade, prosecuted under favorable circumstances, which no longer continue. I will not despair ; the cause, I verily believe, is the cause of the country. It may be postponed ; it may be frustrated for the moment, but it must finally prevail. Let us endeavor to acquire for the present Congress, the merit of having laid this solid foundation of the national prosperity.

If, as I think, fatally for the public interest, the bill shall be defeated, what will be the character of the account which we shall have to render to our constituents upon our return among them? We shall be asked, what have you done to remedy the disorders of the public currency? Why, Mr. Secretary of the Treasury made us a long report on that matter, containing much valuable information, and some very good reasoning, but, upon the whole, we found that subject rather above our comprehension, and we concluded that it was wisest to let it regulate itself. What have you done to supply the deficit in the treasury? We thought that, although you are all endeavoring to get out of the banks, it was a very good time for us to go into them, and we have authorized a loan. You have done something, then, certainly, on the subject of retrenchment. Here, at home, we are practising the greatest economy, and our daughters, no longer able to wear calico gowns, are obliged to put on homespun. Why, we have saved, by the indefatigable exertions of a member from Tennessee,—General Cocke,—fifty thousand dollars, which were wanted for the Yellow Stone expedition. No, not quite so much; for thirty thousand dollars of that sum were still wanted, although we stopped the expedition at the Council Bluffs. And we have saved another sum, which we hope will give you great satisfaction. After nearly two days' debate, and a division between the two houses, we struck off two hundred dollars from the salary of the clerk of the attorney-general. What have you done to protect home industry from the effects of the contracted policy of foreign powers? We thought it best, after much deliberation, to leave things alone at home, and to continue our encouragement to foreign industry. Well, surely you have passed some law to reanimate and revive the hopes of the numerous bankrupts that have been made by the extraordinary circumstances of the world, and the ruinous tendency of our policy? No; the senate could not agree on that subject, and the bankrupt bill failed! Can we plead, sir, ignorance of the general distress, and of the ardent wishes of the community for that protection of its industry, which this bill proposes? No, sir, almost daily, throughout the session, have we been receiving petitions, with which our table is now loaded, humbly imploring us to extend this protection. Unanimous resolutions from important state legislatures have called upon us to give it, and the people of whole states in mass—almost in mass, of New-York, New Jersey, Pennsylvania, and Ohio—have transmitted to us their earnest, and humble petitions to encourage the home industry. Let us not turn a deaf ear to them. Let us not disappoint their just expectations. Let us manifest, by the passage of this bill, that Congress does not deserve the reproaches which have been cast on it, of insensibility to the wants and sufferings of the people.

## ON INTERNAL IMPROVEMENT.

*House of Representatives, January 16, 1824.*

The bill authorizing the President of the United States to cause certain surveys and estimates to be made on the subject of roads and canals, being under consideration,

Mr. Clay, (Speaker,) in rising, said that he could not enter on the discussion of the subject before him, without first asking leave to express his thanks for the kindness of the committee, in so far accommodating him as to agree unanimously to adjourn its sitting to the present time, in order to afford him the opportunity of exhibiting his views; which, however, he feared he should do very unacceptably. As a requital for this kindness, he would endeavor, as far as was practicable, to abbreviate what he had to present to their consideration. Yet, on a question of this extent and moment, there were so many topics which demanded a deliberate examination, that, from the nature of the case, it would be impossible, he was afraid, to reduce the argument to any thing that the committee would consider a reasonable compass.

It was known to all who heard him, that there had now existed for several years a difference of opinion between the executive and legislative branches of this government, as to the nature and extent of certain powers conferred upon it by the constitution. Two successive Presidents had returned to Congress bills which had previously passed both Houses of that body, with a communication of the opinion that Congress, under the constitution, possessed no power to enact such laws. High respect, personal and official, must be felt by all, as it was due, to those distinguished officers, and to their opinions, thus solemnly announced; and the most profound consideration belongs to our present Chief Magistrate, who had favored that House with a written argument, of great length and labor, consisting of not less than sixty or seventy pages, in support of his exposition of the constitution. From the magnitude of the interests involved in the question, all would readily concur, that, if the power is granted, and does really exist, it ought to be vindicated, upheld and maintained, that the country might derive the great benefits which may flow from its prudent exercise. If it has not been communicated to Congress, then all claim to it should be at once surrendered. It was a circumstance of peculiar regret to him, that one more competent than himself had not risen to support the course which the legislative department had heretofore felt itself bound to pursue on this great question. Of all the trusts which are created by human agency, that is the highest, most solemn, and most responsible, which involves the exercise of political power. Exerted when it has not been entrusted, the



public functionary is guilty of usurpation. And his infidelity to the public good is not, perhaps, less culpable, when he neglects or refuses to exercise a power which has been fairly conveyed, to promote the public prosperity. If the power, which he thus forbears to exercise, can only be exerted by him—if no other public functionary can employ it, and the public good requires its exercise, his treachery is greatly aggravated. It is only in those cases where the object of the investment of power is the personal ease or aggrandizement of the public agent, that his forbearance to use it is praiseworthy, gracious or magnanimous.

He was extremely happy to find, that, on many of the points of the argument of the honorable gentleman from Virginia, (Mr. Barbour,) there was entire concurrence between them, widely as they differed in their ultimate conclusions. On this occasion, (as on all others on which that gentleman obliged the House with an expression of his opinions,) he displayed great ability and ingenuity; and, as well from the matter as from the respectful manner of his argument, it was deserving of the most thorough consideration. He was compelled to differ from that gentleman at the very threshold. He had commenced by laying down, as a general principle, that, in the distribution of powers among our federal and State governments, those which were of a municipal character were to be considered as appertaining to the State governments, and those which related to external affairs, to the general government. If he might be allowed to throw the argument of the gentleman into the form of a syllogism, (a shape which he presumed would be quite agreeable to him,) it amounted to this: Municipal powers belong exclusively to the State governments; but the power to make internal improvements is municipal; therefore it belongs to the State governments alone. He (Mr. C.) denied both the premises and the conclusion. If the gentleman had affirmed that certain municipal powers, and the great mass of them, belong to the State governments, his proposition would have been incontrovertible. But, if he had so qualified it, it would not have assisted the gentleman at all in his conclusion. But surely the power of taxation—the power to regulate the value of coin—the power to establish a uniform standard of weights and measures—to establish post offices and post roads—to regulate commerce among the several States—that in relation to the judiciary—besides many other powers indisputably belonging to the federal government, are strictly municipal. If, as he understood the gentleman in the course of the subsequent part of his argument to admit, some municipal powers belong to the one system, and some to the other, we shall derive very little aid from the gentleman's principle, in making the discrimination between the two. The question must ever remain open—whether any given power, and, of course, that in question, is or is not delegated to this government, or retained by the States? . . .

The conclusion of the gentleman is, that all internal improvements belong to the State governments; that they are of a limited and local character, and are not comprehended within the scope of the federal powers, which relate to external or general objects. That many, perhaps most internal improvements, partake of the character described by the gentleman, he (Mr. C.) should not deny. But it was no less true that there were others, emphatically national, which neither the policy, nor the power, nor the interests, of any State would induce it to accomplish, and which could only be effected by the application of the resources of the nation. The improvement of the navigation of the Mississippi would furnish a striking example. This was undeniably a great and important object. The report of a highly scientific and intelligent officer of the engineer corps, (which Mr. C. hoped would be soon taken up and acted upon,) had shown that the cost of any practicable improvement in the navigation of that river, in the present state of the inhabitants of its banks, was a mere trifle in comparison to the great benefits which would accrue from it. He (Mr. C.) believed that about double the amount of the loss of a single steam-boat and cargo, (the 'Tennessee,) would effect the whole improvement in the navigation of that river which ought to be at this time attempted. In this great object twelve States and two Territories were, in different degrees, interested. The power to effect the improvement of that river was surely not municipal, in the sense in which the gentleman used the term. If it were, to which of the twelve States and two Territories concerned did it belong? It was a great object, which could only be effected by a confederacy. And here is existing that confederacy, and no other can lawfully exist: for the constitution prohibits the States, immediately interested, from entering into any treaty or compact with each other. Other examples might be given, to show that, if even the power existed, the inclination to exert it would not be felt, to effectuate certain improvements eminently calculated to promote the prosperity of the Union. Neither of the three States, nor all of them united, through which the Cumberland-road passes, would ever have erected that road. Two of them would have thrown in every impediment to its completion in their power. Federative in its character, it could only have been executed so far by the application of federative means. Again: the contemplated canal through New-Jersey; that to connect the waters of the Chesapeake and Delaware; that to unite the Ohio and the Potomac, were all objects of a general and federative nature, in which the States through which they might severally pass could not be expected to feel any such special interest as would lead to their execution. Tending, as undoubtedly they would do, to promote the good of the whole, the power and the treasure of the whole must be applied to their execution, if they are ever consummated.

Mr. Clay did not think, then, that we should be at all assisted

in expounding the constitution of the United States, by the principle which the gentleman from Virginia had suggested in respect to municipal powers. The powers of both governments were undoubtedly municipal, often operating upon the same subject. He thought a better rule than that which the gentleman furnished for interpreting the constitution, might be deduced from an attentive consideration of the peculiar character of the articles of confederation, as contrasted with that of the present constitution. By those articles, the powers of the thirteen United States were exerted collaterally. They operated through an intermediary. They were addressed to the several states, and their execution depended upon the pleasure and the co-operation of the states individually. The states seldom fulfilled the expectations of the general government in regard to its requisitions, and often wholly disappointed them. Langour and debility, in the movement of the old confederation, were the inevitable consequence of that arrangement of power. By the existing constitution, the powers of the general government act directly on the persons and things within its scope, without the intervention or impediments incident to any intermediary. In executing the great trust which the constitution of the United States creates, we must, therefore, reject that interpretation of its provisions which would make the general government dependent upon those of the states for the execution of any of its powers; and may safely conclude that the only genuine construction would be that which should enable this government to execute the great purposes of its institution, without the co-operation, and, if indispensably necessary, even against the will of any particular state. This is the characteristic difference between the two systems of government, of which we should never lose sight. Interpreted in the one way, we shall relapse into the feebleness and debility of the old confederacy. In the other, we shall escape from its evils, and fulfil the great purposes which the enlightened framers of the existing constitution intended to effectuate. The importance of this essential difference in the two forms of government, would be shown in the future progress of the argument.

Before he proceeded to comment upon those parts of the constitution which appeared to him to convey the power in question, he hoped he should be allowed to disclaim, for his part, several sources whence others had deduced the authority. The gentleman from Virginia seemed to think it remarkable that the friends of the power should disagree so much among themselves; and to draw a conclusion against its existence from the fact of this discrepancy. But he (Mr. C.) could see nothing extraordinary in this diversity of views. What was more common than for different men to contemplate the same subject under various aspects? Such was the nature of the human mind, that enlightened men, perfectly upright in their intentions, differed in their opinions on almost every topic that could be mentioned. It was

rather a presumption, in favor of the cause which he was humbly maintaining, that the same result should be attained by so many various modes of reasoning. But, if contrariety of views might be pleaded with any effect against the advocates of the disputed power, it equally availed against their opponents. There was, for example, not a very exact coincidence in opinion between the President of the United States and the gentleman from Virginia. The President says, (page 25 of his book,) "The use of the existing road, by the stage, mail carrier, or post boy, in passing over it, as others do, is all that would be thought of; the jurisdiction and soil remaining to the state, with a right in the state, or *those authorized by its legislature, to change the road at pleasure.*" Again, page 27, the President asks, "If the United States possessed the power contended for under this grant, might they not, in adopting the roads of the individual states, for the carriage of the mail, as has been done, assume jurisdiction over them, and preclude a right to interfere with or *alter* them?" They both agree that the general government does not possess the power. The gentleman from Virginia admits, if he (Mr. C.) understood him correctly, that the designation of a state road as a post road, so far withdrew it from the jurisdiction of the state, that it could not be afterwards put down or closed by the state; and in this he claims for the general government more power than the President concedes to it. The President, on the contrary, pronounces, that "the absurdity of such a pretension," (that is, preventing, by the designation of a post road, the power of the state from altering or changing it,) "must be apparent to all who examine it!" The gentleman thinks that the designation of a post road withdraws it entirely, so far as it is used for that purpose, from the power of the whole state; whilst the President thinks it absurd to assert that a mere county court may not defeat the execution of a law of the United States! The President thinks that, under the power of appropriating the money of the United States, Congress may apply it to any object of internal improvement, provided it does not assume any territorial jurisdiction; and, in this respect, he claims for the general government more power than the gentleman from Virginia assigns to it. And he (Mr. C.) must own, that he so far coincided with the gentleman from Virginia. If the power can be traced to no more legitimate source than to that of appropriating the public treasure, he yielded the question.

The truth is, that there is no specific grant, in the constitution, of the power of appropriation; nor was any such requisite. It is a resulting power. The constitution vests in Congress the power of taxation, with but few limitations, to raise a public revenue. It then enumerates the powers of Congress. And it follows, of necessity, that Congress has the right to apply the money, so raised, to the execution of the powers so granted. The clause which concludes the enumeration of the granted powers, by authorizing the passage of all laws, "necessary and proper" to ei-

sectuate them, comprehends the power of appropriation. And the framers of the constitution recognize it by the restriction that no money shall be drawn from the treasury but in virtue of a previous appropriation by law. It was to him wonderful how the President should have brought his mind to the conclusion, that, under the power of appropriation, thus incidentally existing, a right could be set up, in its nature almost without limitation, to employ the public money. He combats with great success and much ability, any deduction of power from the clause relating to the general welfare. He shows that the effect of it would be to overturn, or render useless and nugatory, the careful enumeration of our powers; and that it would convert a cautiously limited government into one without limitation. The same process of reasoning by which his mind was brought to this just conclusion, one would have thought, should have warned him against his claiming, under the power of appropriation, such a vast latitude of authority. He reasons strongly against the power, as claimed by us, harmless and beneficent and limited, as it must be admitted to be, and yet he sets up a power boundless in its extent, unrestrained to the object of internal improvements, and comprehending the whole scope of human affairs! For, if the power exists, as he asserts it, what human restraint is there upon it? He does, indeed, say, that it cannot be exerted so as to interfere with the territorial jurisdiction of the states. But this is a restriction altogether gratuitous, flowing from the bounty of the President, and not found in the prescriptions of the constitution. If we have a right, indefinitely, to apply the money of the government to internal improvements, or to any other object, what is to prevent the application of it to the purchase of the sovereignty itself, of a state, if a state were mean enough to sell its sovereignty—to the purchase of kingdoms, empires, the globe itself? With an almost unlimited power of taxation; and, after the revenue is raised, with a right to apply it under no other limitations than those which the President's caution has suggested, he could not see what other human power was needed. It had been said, by Cæsar or Bonaparte, no doubt thought by both, that, with soldiers enough, they could get money enough; and, with money enough, they could command soldiers enough. According to the President's interpretation of the constitution, one of these great levers of public force and power is possessed by this government. The President seems to contemplate, as fraught with much danger, the power, humbly as it is claimed, to effect the internal improvement of the country. And, in his attempt to overthrow it, sets up one of infinitely greater magnitude. The quantum of power which we claim over the subject of internal improvement, is, it is true, of greater amount and force than that which results from the President's view of the constitution; but then it is *limited* to the object of internal improvements; whilst the power set up by the President has no such limitation; and,

in effect, as Mr. C. conceived, has no limitation whatever, but that of the ability of the people to bear taxation.

With the most profound respect for the President, and after the most deliberate consideration of his argument, Mr. C. could not agree with him. He could not think that any political power accrued to this government, from the mere authority which it possessed to appropriate the public revenue. The power to make internal improvements drew after it, most certainly, the right to appropriate money to consummate the object. But he could not conceive that this right of appropriation drew after it the power of internal improvements. The appropriation of money was consequence not cause. It follows; it does not precede. According to the order of nature, we first determine upon the object to be accomplished, and then appropriate the money necessary to its consummation. According to the order of the constitution, the power is defined, and the application, that is, the appropriation of the money requisite to its effectuation, follows as a necessary and proper means. The practice of congressional legislation was conformable to both. We first inquire what we may do, and provide by law for its being done, and we then appropriate, by another act of legislation, the money necessary to accomplish the specified object. The error of the argument lies in its beginning too soon. It supposes the money to be in the treasury, and then seeks to disburse it. But how came it there? Congress cannot impose taxes without an object. Their imposition must be in reference to the whole mass of our powers, to the general purposes of government, or with the view to the fulfilment of some one of those powers, or to the attainment of some one of those purposes. In either case, we consult the constitution, and ascertain the extent of the authority which is confided to us. We cannot, constitutionally, lay the taxes without regard to the extent of our powers; and then, having acquired the money of the public, appropriate it, because we have got it, to any object indefinitely.

Nor did he claim the power in question, from the consent or grant of any particular state or states, through which an object of internal improvement might pass. It might, indeed, be prudent to consult a state through which such an improvement might happen to be carried, from considerations of deference and respect to its sovereign power; and from a disposition to maintain those relations of perfect amity which are ever desirable, between the general and state governments. But the power to establish the improvement, must be found in the constitution, or it does not exist. And what is granted by all, it cannot be necessary to obtain the consent of some to perform.

The gentleman from Virginia, in speaking of incidental powers, had used a species of argument which he entreated him candidly to reconsider. He had said, that the chain of cause and effect was without end; that if we argued from a power expressly granted to all others, which might be convenient or necessary



to its execution, there were no bounds to the power of this government; that, for example, under the power "to provide and maintain a navy," the right might be assumed to the timber necessary to its construction, and the soil on which it grew. The gentleman might have added, the acorns from which it sprung. What, upon the gentleman's own hypothesis, ought to have been his conclusion? That Congress possessed no power to provide and maintain a navy. Such a conclusion would have been quite as logical, as that Congress has no power over internal improvements, from the *possible* lengths to which this power may be pushed. No one ever had, or could, controvert the existence of incidental powers. We may apply different rules for their extraction, but all must concur in the necessity of their actual existence. They result from the imperfections of our nature, and from the utter impossibility of foreseeing all the turns and vicissitudes in human affairs. They cannot be defined. Much is attained when the power, the end, is specified and guarded. Keeping that constantly in view, the means necessary to its attainment must be left to the sound and responsible discretion of the public functionary. Intrench him as you please, employ what language you may, in the constitutional instrument, "necessary and proper," "indispensably necessary," or any other, and the question is still left open, does the proposed measure fall within the scope of the incidental power, circumscribed as it may be? Your safety against abuse must rest in his interest, his integrity, his responsibility to the exercise of the elective franchise; finally, in the ultimate right, when all other redress fails, of an appeal to the remedy, to be used only in extreme cases, of forcible resistance against intolerable oppression.

Doubtless, by an extravagant and abusive enlargement of incidental powers, the state governments may be reduced within too narrow limits. Take any power, however incontestibly granted to the general government, and employ that kind of process of reasoning in which the gentleman from Virginia is so skilful, by tracing it to its remotest effects, you may make it absorb the powers of the state governments. Pursue the opposite course; take any incontestible power belonging to the state governments, and follow it out into all its possible ramifications, and you make it thwart and defeat the great operations of the government of the whole. This is the consequence of our systems. Their harmony is to be preserved only by forbearance, liberality, practical good sense, and mutual concession. Bring these dispositions into the administrations of our various institutions, and all the dreaded conflicts of authorities will be found to be perfectly imaginary.

He said, that he disclaimed, for himself, several sources to which others had ascended, to arrive at the power in question. In making this disclaimer, he meant to cast no imputation on them. He was glad to meet them by whatever road they tra-



velled, at the point of a constitutional conclusion. Nor did their positions weaken his; on the contrary, if correctly taken, and his also were justified by fair interpretation, they added strength to his. But he felt it his duty, frankly and sincerely, to state his own views of the constitution. In coming to the ground on which (said Mr. C.) I make my stand to maintain the power, and where I am ready to meet its antagonist, I am happy, in the outset, to state my hearty concurrence with the gentleman from Virginia, in the old 1798 republican principles—now become federal also—by which the constitution is to be interpreted. I agree with him, that this is a limited government; that it has no powers but the granted powers; and that the granted powers are those which are expressly enumerated, or such as, being implied, are necessary and proper to effectuate the enumerated powers. And, if I do not show the power over federative, national, internal improvements, to be fairly deducible, after the strictest application of these principles, I entreat the committee unanimously to reject the bill. The gentleman from Virginia has rightly anticipated, that, in regard to roads, I claim the power under the grant *to establish* post offices and post roads. The whole question, on this part of the subject, turns upon the true meaning of this clause, and that again upon the genuine signification of the word “*establish*.” According to my understanding of it, the meaning of it is, to fix, to make firm, to build. According to that of the gentleman from Virginia, it is to designate, to adopt. Grammatical criticism was to me always unpleasant, and I do not profess to be any proficient in it. But I will confidently appeal, in support of my definition, to any vocabulary whatever, of respectable authority, and to the common use of the word. That it could not mean only adoption was to me evident, for *adoption* presupposes establishment, which is precedent in its very nature. That which does not exist, which is not established, cannot be adopted. There was, then, an essential difference between the gentleman from Virginia and me. I consider the power as original and creative; he as derivative, adoptive. But I will show, out of the mouth of the President himself, who agrees with the gentleman from Virginia, as to the sense of this word, that what I contend for is its genuine meaning. The President, in almost the first lines of his message to this house, of the fourth of May, 1822, returning the Cumberland bill with his veto, says, “a power to *establish* turnpikes, with gates and tolls, &c., implies a power to adopt and execute a complete system of internal improvement.” What is the sense in which the word “*establish*” is here used? Is it not creative? Did the President mean to adopt or designate some pre-existing turnpikes, with gates, &c., or, for the first time to set them up, under the authority of Congress? Again, the President says, “if it exist as to one road, [that is the power to lay duties of transit, and to take the land on a valuation,] it exists as to any other, and to as many roads as Congress may think proper to ‘*establish*.’” In what sense does

he here employ the word? The truth is, that the President could employ no better than the constitutional word, and he is obliged to use it in the precise sense for which I contend. But I go to a higher authority than that of the chief magistrate—to that of the constitution itself. In expounding that instrument, we must look at all its parts; and, if we find a word, the meaning of which it is desirable to obtain, we may safely rest upon the use which has been made of the same word in other parts of the instrument. The word “establish” is one of frequent recurrence in the constitution; and I venture to say that it will be found uniformly to express the same idea. In the clause enumerating our powers, “Congress has power to *establish* a uniform rule of naturalization,” &c. In the preamble, “we, the people of the United States, in order to form a more perfect union, *establish* justice, &c., do ordain and *establish* this constitution,” &c. What pre-existing code of justice was adopted? Did not the people of the United States, in this high sovereign act, contemplate the construction of a code adapted to their federal condition? The sense of the word, as contended for, was self-evident when applied to the constitution.

But let us look at the nature, object and purposes of the power. The trust confided to Congress was one of the most beneficial character. It was the diffusion of information among all the parts of this republic. It was the transmission and circulation of intelligence; it was to communicate knowledge of the laws and acts of government, and to promote the great business of society in all its relations. This was a great trust, capable of being executed in a highly salutary manner. It could be executed only by Congress, and it should be as well performed as it could be, considering the wants and exigencies of government. And here I beg leave to advert to the principle which I some time ago laid down, that the powers granted to this government are to be carried into execution by its own inherent force and energy, without necessary dependence upon the State governments. If my construction secures this object; and if that of my opponents places the execution of this trust at the pleasure and mercy of the State governments, we must reject theirs, and assume mine. But the construction of the President does make it so dependent. He contends that we can only use as post roads those which the States shall have previously established; that they are at liberty to alter, to change, and of course to shut them up at pleasure. It results from this view of the President, that any of the great mail routes now existing, that for example from south to north, may be closed at pleasure or by caprice, by any one of the States, or its authorities, through which it passes, by that of Delaware, or any other. Is it possible that that construction of the constitution can be correct, which allows a law of the United States, enacted for the good of the whole, to be obstructed or defeated in its operation by any one of twenty-four sovereignties? The gentleman from Virgi-

nia, it is true, denies the right of a State to close a road which has been designated as a post road. But suppose the State, no longer having occasion to use it for its own separate and peculiar purposes, withdraws all care and attention from its preservation. Can the State be compelled to repair it? No! the gentleman from Virginia must say, and I will say—may not the general government repair this road which is abandoned by the State power? May it not repair it in the most efficacious manner? And may it not protect and defend that which it has thus repaired, and which there is no longer an interest or inclination in the State to protect and defend? Or does the gentleman mean to contend that a road may exist in the statute book, which a State will not, and the general government cannot, repair and improve? And what sort of an account should we render, to the people of the United States, of the execution of the high trust confided, for their benefit to us, if we were to tell them that we had failed to execute it, because a State would not make a road for us?

The roads, and other internal improvements of States, are made in reference to their individual interests. It is the eye only of the whole, and the power of the whole, that can look to the interests of all. In the infancy of the government, and in the actual state of the public treasury, it may be the only alternative left us to use those roads, which are made for State purposes, to promote the national object, ill as they may be adapted to it. It may never be necessary to make more than a few great national arteries of communication, leaving to the States the lateral and minor ramifications. Even these should only be executed, without pressure upon the resources of the country, and according to the convenience and ability of government. But, surely, in the performance of a great national duty imposed upon this government, which has for its object the distribution of intelligence, civil, commercial, literary and social, we ought to perform the substance of the trust, and not content ourselves with a mere inefficient paper execution of it. If I am right in these views, the power to establish post roads being in its nature original and creative, and the government having adopted the roads made by State means only from its inability to exert the whole extent of its authority, the controverted power is *expressly* granted to Congress, and there is an end of the question.

It ought to be borne in mind, that this power over roads was not contained in the articles of confederation, which limited Congress to the establishment of post-offices; and that the general character of the present constitution, as contrasted with those articles, is that of an enlargement of power. But, if the construction of my opponents be correct, we are left precisely where the articles of confederation left us, notwithstanding the additional words contained in the present constitution. What, too, will the gentlemen do with the first member of the clause to establish post *offices*? Must Congress adopt, designate, some

pre-existing office, established by state authority? But there is none such. May it not then fix, build, create, *establish* offices of its own?

The gentleman from Virginia sought to alarm us by the awful emphasis with which he set before us the total extent of post roads in the Union. Eighty thousand miles of post roads! exclaimed the gentleman; and you will assert for the general government jurisdiction, and erect turnpikes, on such an immense distance? Not to-day, nor to-morrow; but this government is to last, I trust, forever; we may at least hope it will endure until the wave of population, cultivation and intelligence shall have washed the Rocky mountains, and mingled with the Pacific. And may we not also hope that the day will arrive when the improvements and the comforts of social life shall spread over the wide surface of this vast continent? All this is not to be suddenly done. Society must not be burthened or oppressed.— Things must be gradual and progressive. The same species of formidable array which the gentleman makes, might be exhibited in reference to the construction of a navy, or any other of the great purposes of government. We might be told of the fleets and vessels of great maritime powers, which whiten the ocean; and triumphantly asked if we should vainly attempt to cope with or rival that tremendous power? And we should shrink from the effort, if we were to listen to his counsels, in hopeless despair. Yes, sir, it is a subject of peculiar delight to me to look forward to the proud and happy period, distant as it may be, when circulation and association between the Atlantic and the Pacific and the Mexican gulf, shall be as free and perfect as they are at this moment in England, or in any other the most highly improved country on the globe. In the mean time, without bearing heavily upon any of our important interests, let us apply ourselves to the accomplishment of what is most practicable, and immediately necessary.

But what most staggers my honorable friend, is the jurisdiction over the sites of roads and other internal improvements, which he supposes Congress might assume; and he considers the exercise of such a jurisdiction as furnishing the just occasion for serious alarm. Let us analyze the subject. Prior to the erection of a road under the authority of the general government, there existed, in the state through which it passes, no actual exercise of jurisdiction over the ground which it traverses *as a road*. There was only the possibility of the exercise of such a jurisdiction, when the state should, if ever, erect such a road. But the road is made by the authority of Congress, and out of the *fact* of its erection arises a necessity for its preservation and protection. The road is some thirty or fifty or sixty feet in width, and with that narrow limit passes through a part of the territory of the state. The capital expended in the making of the road incorporates itself with and becomes a part of the permanent and immovable property of the state. The jurisdiction

which is claimed for the general government, is that only which relates to the necessary defence, protection, and preservation, of the road. It is of a character altogether conservative. Whatever does not relate to the existence and protection of the road remains with the state. Murders, trespasses, contracts, all the occurrences and transactions of society upon the road, not affecting its actual existence, will fall within the jurisdiction of the civil or criminal tribunals of the state, as if the road had never been brought into existence. How much remains to the state! How little is claimed for the general government! Is it possible that a jurisdiction so limited, so harmless, so unambitious, can be regarded as seriously alarming to the sovereignty of the states! Congress now asserts and exercises, without contestation, a power to protect the mail in its transit, by the sanction of all suitable penalties. The man who violates it is punished with death, or otherwise, according to the circumstances of the case. This power is exerted as incident to that of establishing post offices and post roads. Is the protection of the thing *in transitu* a power more clearly deducible from the grant, than that of facilitating, by means of a practicable road, its actual transportation? Mails certainly imply roads, roads imply their own preservation, their preservation implies the power to preserve them, and the constitution tells us, in express terms, that we shall establish the one and the other.

In respect to cutting canals, I admit the question is not quite so clear as in regard to roads. With respect to these, as I have endeavored to show, the power is expressly granted. In regard to canals, it appears to me to be fairly comprehended in, or deducible from, certain granted powers. Congress has power to regulate commerce with foreign nations and among the several states. Precisely the same measure of power which is granted in the one case is conferred in the other. And the uniform practical exposition of the constitution, as to the regulation of foreign commerce, is equally applicable to that among the several states. Suppose, instead of directing the legislation of this government constantly, as heretofore, to the object of foreign commerce, to the utter neglect of the interior commerce among the several states, the fact had been reversed, and now, for the first time, we were about to legislate for our foreign trade: Should we not, in that case, hear all the constitutional objections made to the erection of buoys, beacons, light-houses, the surveys of coasts, and the other numerous facilities accorded to the foreign trade, which we now hear to the making of roads and canals? Two years ago, a sea-wall, or, in other words, a marine canal, was authorized by an act of Congress, in New-Hampshire; and I doubt not that many of those voted for it who have now constitutional scruples on this bill. Yes, any thing, every thing, may be done for foreign commerce; any thing, every thing, on the margin of the ocean; but nothing for domestic trade; nothing for the great interior of the country! Yet, the equity and the beneficence of

the constitution equally comprehends both. The gentleman does, indeed, maintain that there is a difference as to the character of the facilities in the two cases. But I put it to his own candor, whether the only difference is not that which springs from the nature of the two elements on which the two species of commerce are conducted—the difference between land and water. The principle is the same, whether you promote commerce by opening for it an artificial channel where now there is none, or by increasing the ease or safety with which it may be conducted through a natural channel which the bounty of Providence has bestowed. In the one case, your object is to facilitate arrival and departure from the ocean to the land. In the other, it is to accomplish the same object from the land to the ocean. Physical obstacles may be greater in the one case than in the other, but the moral or constitutional power equally includes both. The gentleman from Virginia had, to be sure, contended that the power to make these commercial facilities was to be found in another clause of the constitution—that which enables Congress to obtain cessions of territory for specific objects, and grants to it an exclusive jurisdiction. These cessions may be obtained for the “erection of forts, magazines, arsenals, dockyards, or other needful buildings.” It is apparent that it relates altogether to military or naval affairs, and not to the regulation of commerce. How was the marine canal covered by this clause? Is it to be considered as a “needful building?” The object of this power is perfectly obvious. The convention saw that, in military or naval posts, such as are indicated, it was indispensably necessary, for their proper government, to vest in Congress the power of exclusive legislation. If we claimed over objects of internal improvement an exclusive jurisdiction, the gentleman might urge, with much force, the clause in question. But the claim of concurrent jurisdiction only is asserted. The gentleman professes himself unable to comprehend how concurrent jurisdiction can be exercised by two different governments at the same time over the same persons and things. But, is not this the fact with respect to the state and federal governments? Does not every person, and every thing, within our limits, sustain a two-fold relation to the state and to the federal authority? The power of taxation as exerted by both governments, that over the militia, besides many others, is concurrent. No doubt embarrassing cases may be conceived and stated by gentlemen of acute and ingenious minds. One was put to me yesterday. Two canals are desired, one by the federal, and the other by a state government; and there is not a supply of water but for the feeder of one canal—which is to take it? The constitution, which ordains the supremacy of the laws of the United States, answers the question. The good of the whole is paramount to the good of a part. The same difficulty might possibly arise in the exercise of the incontestible power of taxation. We know that the imposition of taxes has its limits. There is a maximum which cannot be



transcended. Suppose the citizen to be taxed by the general government to the utmost extent of his ability, or a thing as much as it can possibly bear, and the state imposes a tax at the same time, which authority is to take it? Extreme cases of this sort may serve to amuse and to puzzle; but they will hardly ever arise in practice. And we may safely confide in the moderation, good sense, and mutual good dispositions, of the two governments, to guard against the imagined conflicts.

It is said by the President, that the power to regulate commerce merely authorizes the laying of imposts and duties. But Congress has no power to lay imposts and duties on the trade among the several states. The grant must mean, therefore, something else. What is it? The power to regulate commerce among the several states, if it has any meaning, implies authority to foster it, to promote it, to bestow on it facilities similar to those which have been conceded to our foreign trade. It cannot mean only an empty authority to adopt regulations, without the capacity to give practical effect to them. All the powers of this government should be interpreted in reference to its first, its best, its greatest object, the union of these states. And is not that union best invigorated by an intimate, social, and commercial connexion between all the parts of the confederacy? Can that be accomplished, that is, can the federative objects of this government be attained, but by the application of federative resources?

Of all the powers bestowed on this government, Mr. Clay thought none were more clearly vested, than that to regulate the distribution of the intelligence, private and official, of the country; to regulate the distribution of its commerce; and to regulate the distribution of the physical force of the Union. In the execution of the high and solemn trust which these beneficial powers imply, we must look to the great ends which the framers of our admirable constitution had in view. We must reject, as wholly incompatible with their enlightened and beneficent intentions, that construction of these powers which would resuscitate all the debility and inefficiency of the ancient confederacy. In the vicissitudes of human affairs, who can foresee all the possible cases, in which it may be necessary to apply the public force, within or without the Union? This government is charged with the use of it, to repel invasions, to suppress insurrections, to enforce the laws of the Union; in short, for all the unknown and undefinable purposes of war, foreign or intestine, wherever and however it may rage. During its existence, may not government, for its effectual prosecution, order a road to be made, or a canal to be cut, to relieve, for example, an exposed point of the Union? If, when the emergency comes, there is a power to provide for it, that power must exist in the constitution, and not in the emergency. A wise, precautionary, and parental policy, anticipating danger, will before hand provide for the hour of need. Roads and canals are in the nature of fortifications, since, if not the deposits of military resources, they enable you to bring



into rapid action, the military resources of the country, whatever they may be. They are better than any fortifications, because they serve the double purposes of peace and of war. They dispense in a great degree, with fortifications, since they have all the effect of that concentration, at which fortifications aim. I appeal from the precepts of the President to the practice of the President. While he denies to Congress the power in question, he does not scruple, upon his sole authority, as numerous instances in the statute book will testify, to order, at pleasure, the opening of roads by the military, and then come here to ask us to pay for them. Nay, more, sir; a subordinate but highly respectable officer of the executive government I believe would not hesitate to provide a boat or cause a bridge to be erected over an inconsiderable stream, to ensure the regular transportation of the mail. And it happens to be within my personal knowledge, that the head of the post-office department, as a prompt and vigilant officer should do, had recently despatched an agent to ascertain the causes of the late frequent vexatious failures of the great northern mail, and to inquire if a provision of a boat or bridge over certain small streams in Maryland, which have produced them, would not prevent their recurrence.

I was much surprised at one argument of the honorable gentleman. He told the house, that the constitution had carefully guarded against inequality, among the several states, in the public burthens, by certain restrictions upon the power of taxation; that the effect of the adoption of a system of internal improvements would be to draw the resources from one part of the Union, and to expend them in the improvements of another; and that the spirit, at least, of the constitutional equality, would be thus violated. From the nature of things, the constitution could not specify the theatre of the expenditure of the public treasure. That expenditure, guided by and looking to the public good, must be made, necessarily, where it will most subserve the interests of the whole Union. The argument is, that the *locale* of the collection of the public contributions, and the *locale* of their disbursement, should be the same. Now, sir, let us carry this argument out; and no man is more capable than the ingenious gentleman from Virginia, of tracing an argument to its utmost consequences. The *locale* of the collection of the public revenue is the pocket of the citizen; and, to abstain from the violation of the principle of equality adverted to by the gentleman, we should restore back into each man's pocket precisely what was taken from it. If the principle contended for be true, we are habitually violating it. We raise about twenty millions of dollars, a very large revenue, considering the actual distresses of the country. And, sir, notwithstanding all the puffing, flourishing statements of its prosperity, emanating from printers who are fed upon the pap of the public treasury, the whole country is in a condition of very great distress. Where is this vast revenue expended? Boston, New-York, the great capitals of the north, are

the theatres of its disbursement. There the interest upon the public debt is paid. There the expenditure in the building, equipment, and repair of the national vessels takes place. There all the great expenditures of the government necessarily concentrate. This is no cause of just complaint. It is inevitable, resulting from the accumulation of capital, the state of the arts, and other circumstances belonging to our great cities. But, sir, if there be a section of this Union having more right than any other to complain of this transfer of the circulating medium from one quarter of the Union to another, the west, the poor west—[Here Mr. Barbour explained. He had meant that the constitution limited Congress as to the proportions of revenue to be drawn from the several states; but the principle of this provision would be vacated by internal improvements of immense expense, and yet of a local character. Our public ships, to be sure, are built at the seaports, but they do not remain there. Their home is the mountain wave; but internal improvements are essentially local; they touch the soil of the states, and their benefits, at least the largest part of them, are confined to the states where they exist.] The explanation of the gentleman has not materially varied the argument. He says that the home of our ships is the mountain wave. Sir, if the ships go to sea, the money with which they were built, or refitted, remains on shore, and the cities where the equipment takes place derive the benefit of the expenditure. It requires no stretch of the imagination to conceive the profitable industry—the axes, the hammers, the saws—the mechanic arts, which are put in motion by this expenditure. And all these, and other collateral advantages, are enjoyed by the seaports. The navy is built for the interest of the whole. Internal improvements of that general, federative character, for which we contend would also be for the interest of the whole. And, I should think their abiding with us, and not going abroad on the vast deep, was rather cause of recommendation than objection.

But, Mr. Chairman, if there be any part of this Union more likely than all others to be benefitted by the adoption of the gentleman's principle, regulating the public expenditure, it is the west. There is a perpetual drain, from that embarrassed and highly distressed portion of our country, of its circulating medium to the east. There, but few and inconsiderable expenditures of the public money take place. There we have none of those public works, no magnificent edifices, forts, armories, arsenals, dockyards, &c., which, more or less, are to be found in every Atlantic State. In at least seven States beyond the Alleghany, not one solitary public work of this government is to be found. If, by one of those awful and terrible dispensations of Providence which sometimes occur, this government should be unhappily annihilated, every where on the sea-board traces of its former existence would be found; whilst we should not have, in the west, a single monument remaining, on which to pour out our

affections and our regrets. Yet, sir, we do not complain. No portion of your population is more loyal to the Union, than the hardy freemen of the west. Nothing can weaken or eradicate their ardent desire for its lasting preservation. None are more prompt to vindicate the interests and rights of the nation from all foreign aggression. Need I remind you of the glorious scenes in which they participated during the late war—a war in which they had no peculiar or direct interest, waged for no commerce, no seamen of theirs. But it was enough for them that it was a war demanded by the character and the honor of the nation. They did not stop to calculate its cost of blood, or of treasure. They flew to arms; they rushed down the valley of the Mississippi, with all the impetuosity of that noble river. They sought the enemy. They found him at the beach. They fought; they bled; they covered themselves and their country with immortal glory. They enthusiastically shared in all the transports occasioned by our victories, whether won on the ocean or on the land. They felt, with the keenest distress, whatever disaster befel us. No, sir, I repeat it, neglect, injury itself, cannot alienate the affections of the west from this government. They cling to it, as to their best, their greatest, their last hope. You may impoverish them, reduce them to ruin, by the mistakes of your policy, and you cannot drive them from you. They do not complain of the expenditure of the public money, where the public exigencies require its disbursement. But, I put it to your candor, if you ought not, by a generous and national policy, to mitigate, if not prevent, the evils resulting from the perpetual transfer of the circulating medium from the west to the east. One million and a half of dollars annually, is transferred for the public lands alone; and almost every dollar goes, like him who goes to death—to a bourne from which no traveller returns. In ten years it will amount to fifteen millions; in twenty to—but I will not pursue the appalling results of arithmetic. Gentlemen who believe that these vast sums are supplied by emigrants from the east, labor under great error. There was a time when the tide of emigration from the east bore along with it the means to effect the purchase of the public domain. But that tide has, in a great measure, now stopt. And, as population advances farther and farther west, it will entirely cease. The greatest migrating States in the Union, at this time, are Kentucky first, Ohio next, and Tennessee. The emigrants from those States carry with them, to the States and Territories lying beyond them, the circulating medium, which, being invested in the purchase of the public land, is transmitted to the points where the wants of government require it. If this debilitating and exhausting process were inevitable, it must be borne with manly fortitude. But we think that a fit exertion of the powers of this government would mitigate the evil. We believe that the government incontestibly possesses the constitutional power to execute such internal improvements as are called for by the good

of the whole. And we appeal to your equity, to your parental regard, to your enlightened policy, to perform the high and beneficial trust thus sacredly reposed. I am sensible of the delicacy of the topic to which I have reluctantly adverted, in consequence of the observations of the honorable gentleman from Virginia. And I hope there will be no misconception of my motives in dwelling upon it. A wise and considerate government should anticipate and prevent, rather than wait for the operation of causes of discontent.

Let me ask, Mr. Chairman, what has this government done on the great subject of internal improvements, after so many years of its existence, and with such an inviting field before it? You have made the Cumberland road, only. Gentlemen appear to have considered that a western road. They ought to recollect that not one stone has yet been broken, not one spade of earth has been yet removed in any western State. The road begins in Maryland, and it terminates at Wheeling. It passes through the States of Maryland, Pennsylvania, and Virginia. All the direct benefit of the expenditure of the public money on that road, has accrued to those three States; not one cent in any western State. And yet we have had to beg, entreat, supplicate you, session after session, to grant the necessary appropriations to complete the road. I have myself toiled until my powers have been exhausted and prostrated, to prevail on you to make the grant. We were actuated to make these exertions for the sake of the collateral benefit only to the west; that we might have a way by which we should be able to continue and maintain an affectionate intercourse with our friends and brethren—that we might have a way to reach the capitol of our country, and to bring our councils, humble as they may be, to consult and mingle with yours in the advancement of the national prosperity. Yes, sir, the Cumberland road has only reached the margin of a western State; and, from some indications which have been given during this session, I should apprehend it would there pause forever, if my confidence in you were not unbounded; if I had not before witnessed that appeals were never unsuccessful to your justice, to your magnanimity, to your fraternal affection.

But, sir, the bill on your table is no western bill. It is emphatically a national bill, comprehending all, looking to the interests of the whole. The people of the west never thought of, never desired, never asked, for a system exclusively for their benefit. The system contemplated by this bill looks to great national objects, and proposes the ultimate application to their accomplishment of the only means by which they can be effected, the means of the nation—means which, if they be withheld from such objects, the Union, I do most solemnly believe, of these now happy and promising States, may, at some distant (I trust a far, far distant) day may be endangered and shaken at its centre.

## ON THE GREEK REVOLUTION.

*Speech on the Greek Revolution, delivered in the House of Representatives, 20th January, 1824.*

Mr. Clay rose, and commenced his speech by distinctly stating the original resolution, as moved by Mr. Webster, and the amendment proposed to it by Mr. Poinsett. The resolution proposed a provision of the means to defray the expense of deputing a commissioner or agent to Greece, whenever the President, who knows, or ought to know, the disposition of all the European powers, Turkish or Christian, shall deem it proper. The amendment goes to withhold any appropriation to that object, but to make a public declaration of our sympathy with the Greeks, and of our good wishes for the success of their cause. And how has this simple, unpretending, unambitious, this harmless proposition, been treated in debate? It has been argued as if it offered aid to the Greeks; as if it proposed the recognition of the independence of their government; as a measure of unjustifiable interference in the internal affairs of a foreign state, and finally, as war. And they who thus argue the question, whilst they absolutely surrender themselves to the illusions of their own fervid imaginations, and depict, in glowing terms, the monstrous and alarming consequences which are to spring out of a proposition so simple, impute to us, who are its humble advocates, quixotism, quixotism! Whilst they are taking the most extravagant and boundless range, and arguing any thing and every thing but the question before the committee, they accuse us of enthusiasm, of giving the reins to excited feeling, of being transported by our imaginations. No, sir, the resolution is no proposition for aid, nor for recognition, nor for interference, nor for war.

I know that there are some who object to the resolution on account of the source from which it has sprung—who except to its mover, as if its value or importance were to be estimated by personal considerations. I have long had the pleasure of knowing the honorable gentleman from Massachusetts, and sometimes that of acting with him; and I have much satisfaction in expressing my high admiration of his great talents. But I would appeal to my republican friends, those faithful sentinels of civil liberty with whom I have ever acted, shall we reject a proposition, consonant to our principles, favoring the good and great cause, on account of the political character of its mover? Shall we not rather look to the intrinsic merits of the measure, and seek every fit occasion to strengthen and perpetuate liberal principles and noble sentiments? If it were possible for republicans to cease to be the champions of human freedom, and if federal-

ists become its only supporters, I would cease to be a republican; I would become a federalist. The preservation of the public confidence can only be secured, or merited, by a faithful adherence to the principles by which it has been acquired.

Mr. Chairman, is it it not extraordinary that for these two successive years the President of the United States should have been freely indulged, not only without censure, but with universal applause, to express the feelings which both the resolution and the amendment proclaim, and yet if this house venture to unite with him, the most awful consequences are to ensue? From Maine to Georgia, from the Atlantic ocean to the gulf of Mexico, the sentiment of approbation has blazed with the rapidity of electricity. Every where the interest in the Grecian cause is felt with the deepest intensity, expressed in every form, and increases with every new day and passing hour. And are the representatives of the people alone to be insulated from the common moral atmosphere of the whole land? Shall we shut ourselves up in apathy, and separate ourselves from our country? from our constituents? from our chief magistrate? from our principles?

The measure has been most unreasonably magnified. Gentlemen speak of the watchful jealousy of the Turk, and seem to think that the slightest movement of this body will be matter of serious speculation at Constantinople. I believe that neither the Sublime Porte, nor the European allies, attach any such exaggerated importance to the acts and deliberations of this body. The Turk will, in all probability, never hear of the names of the gentlemen who either espouse or oppose the resolution. It certainly is not without a value; but that value is altogether moral; it throws our little tribute into the vast stream of public opinion, which sooner or later must regulate the physical action upon the great interests of the civilized world. But, rely upon it, the Ottoman is not about to declare war against us because this unoffending proposition has been offered by my honorable friend from Massachusetts, whose name, however distinguished and eminent he may be in our own country, has probably never reached the ears of the Sublime Porte. The allied powers are not going to be thrown into a state of consternation, because we appropriate some two or three thousand dollars to send an agent to Greece.

The question has been argued as if the Greeks would be exposed to still more shocking enormities by its passage; as if the Turkish scimitar would be rendered still keener, and dyed deeper and yet deeper in Christian blood. Sir, if such is to be the effect of the declaration of our sympathy, the evil has been already produced. That declaration has been already publicly and solemnly made by the Chief Magistrate of the United States, in two distinct messages. It is this document which commands at home and abroad the most fixed and universal attention; which is translated into all the foreign journals; read by sovereigns and their ministers; and, possibly, in the divan itself. But our resolutions are domestic, for home consumption, and rarely, if ever,

meet imperial or royal eyes. The President, in his messages, after a most touching representation of the feelings excited by the Greek insurrection, tells you that the dominion of the Turk is gone forever; and that the most sanguine hope is entertained that Greece will achieve her independence. Well, sir, if this be the fact, if the allied powers themselves may, possibly, before we again assemble in this hall, acknowledge that independence, is it not fit and becoming in this house to make provision that our President shall be among the foremost, or at least not among the last, in that acknowledgment? So far from this resolution being likely to whet the vengeance of the Turk against his Grecian victims, I believe its tendency will be directly the reverse. Sir, with all his unlimited power, and in all the elevation of his despotic throne, he is at last but man, made as we are, of flesh, of muscle, of bone and sinew. He is susceptible of pain, and can feel, and has felt the uncalculating valor of American freemen in some of his dominions. And when he is made to understand that the executive of this government is sustained by the representatives of the people; that our entire political fabric, base, column, and entablature, rulers and people, with heart, soul, mind, and strength, are all on the side of the gallant people whom he would crush, he will be more likely to restrain than to increase his atrocities upon suffering and bleeding Greece.

The gentleman from New-Hampshire, (Mr. Bartlett,) has made, on this occasion, a very ingenious, sensible, and ironical speech—an admirable *debut* for a new member, and such as I hope we shall often have repeated on this floor. But, permit me to advise my young friend to remember the maxim, “that sufficient unto the day is the evil thereof;” and when the resolution,\* on another subject, which I had the honor to submit, shall come up to be discussed, I hope he will not content himself with saying, as he has now done, that it is a very extraordinary one; but that he will then favor the house with an argumentative speech, proving that it is our duty quietly to see laid prostrate every fortress of human hope, and to behold, with indifference, the last outwork of liberty taken and destroyed.

It has been said, that the proposed measure will be a departure from our uniform policy with respect to foreign nations; that it will provoke the wrath of the holy alliance; and that it will, in effect, be a repetition of their own offence, by an unjustifiable interposition in the domestic concerns of other powers. No, sir, not even if it authorized, which it does not, an immediate recognition of Grecian independence. What has been the settled and steady policy and practice of this government, from the days of Washington, to the present moment? In the case of France, the father of his country and his successors received Genet, Fouchet and all the French ministers who followed them, whether sent

\* The resolution, offered by Mr. Clay, declaring that the United States would not see with indifference any interference of the holy alliance in behalf of Spain against the new American republics.



from king, convention, anarchy, emperor, or king again. The rule we have ever followed has been this: to look at the state of the fact, and to recognize that government, be it what it might, which was in actual possession of sovereign power. When one government is overthrown, and another is established on its ruins, without embarrassing ourselves with any of the principles involved in the contest, we have ever acknowledged the new and actual government as soon as it had undisputed existence. Our simple inquiry has been, is there a government *de facto*? We have had a recent and memorable example. When the allied ministers retired from Madrid, and refused to accompany Ferdinand to Cadiz, ours remained, and we sent out a new minister, who sought at that port to present himself to the constitutional king. Why? Because it was the government of Spain, in fact. Did the allies declare war against us for the exercise of this incontestible attribute of sovereignty? Did they even transmit any diplomatic note, complaining of our conduct? The line of our European policy has been so plainly described that it is impossible to mistake it. We are to abstain from all interference in their disputes, to take no part in their contests, to make no entangling alliances with any of them; but to assert and exercise our indisputable right of opening and maintaining diplomatic intercourse with any actual sovereignty.

There is reason to apprehend that a tremendous storm is ready to burst upon our happy country—one which may call into action all our vigor, courage, and resources. Is it wise or prudent, in preparing to breast the storm, if it must come, to talk to this nation of its incompetency to repel European aggression, to lower its spirit, to weaken its moral energy, and to qualify it for easy conquest and base submission? If there be any reality in the dangers which are supposed to encompass us, should we not animate the people, and adjure them to believe, as I do, that our resources are ample; and that we can bring into the field a million of freemen, ready to exhaust their last drop of blood, and to spend the last cent in the defence of the country, its liberty, and its institutions? Sir, are these, if united, to be conquered by all Europe combined? All the perils to which we can possibly be exposed, are much less in reality than the imagination is disposed to paint them. And they are best averted by an habitual contemplation of them, by reducing them to their true dimensions. If combined Europe is to precipitate itself upon us, we cannot too soon begin to invigorate our strength, to teach our heads to think, our hearts to conceive, and our arms to execute, the high and noble deeds which belong to the character and glory of our country. The experience of the world instructs us, that conquests are already achieved, which are boldly and firmly resolved on; and that men only become slaves who have ceased to resolve to be free. If we wish to cover ourselves with the best of all armour, let us not discourage our people, let us stimulate their ardor, let us sustain their resolution, let us proclaim to them that

we feel as they feel, and that, with them, we are determined to live or die like freemen.

Surely, sir, we need no long or learned lectures about the nature of government, and the influence of property or ranks on society. We may content ourselves with studying the true character of our own people; and with knowing that the interests are confided to us of a nation capable of doing and suffering all things for its liberty. Such a nation, if its rulers be faithful, must be invincible. I well remember an observation made to me, by the most illustrious female\* of the age, if not of her sex. All history showed, she said, that a nation was never conquered. No, sir, no united nation that resolves to be free, can be conquered. And has it come to this? Are we so humbled, so low, so debased, that we dare not express our sympathy for suffering Greece, that we dare not articulate our detestation of the brutal excesses of which she has been the bleeding victim, lest we might offend some one or more of their imperial and royal majesties? If gentlemen are afraid to act rashly on such a subject, suppose, Mr. Chairman, that we unite in an humble petition, addressed to their majesties, beseeching them that of their gracious condescension, they would allow us to express our feelings and our sympathies. How shall it run? "We, the representatives of the *free* people of the United States of America, humbly approach the thrones of your imperial and royal majesties, and supplicate that, of your imperial and royal clemency,"—I cannot go through the disgusting recital—my lips have not yet learnt to pronounce the sycophantic language of a degraded slave! Are we so mean, so base, so despicable, that we may not attempt to express our horror, utter our indignation, at the most brutal and atrocious war that ever stained earth or shocked high Heaven, at the ferocious deeds of a savage and infuriated soldiery, stimulated and urged on by the clergy of a fanatical and inimical religion, and rioting in all the excesses of blood and butchery, at the mere details of which the heart sickens and recoils!

If the great body of Christendom can look on calmly and coolly, whilst all this is perpetrated on a Christian people, in its own immediate vicinity, in its very presence, let us at least evince that one of its remote extremities is susceptible of sensibility to Christian wrongs, and capable of sympathy for Christian sufferings; that in this remote quarter of the world, there are hearts not yet closed against compassion for human woes, that can pour out their indignant feelings at the oppression of a people endeared to us by every ancient recollection, and every modern tie. Sir, the committee has been attempted to be alarmed by the dangers to our commerce in the Mediterranean; and a wretched invoice of figs and opium has been spread before us to repress our sensibilities and to eradicate our humanity. Ah! sir, "what

\* Mad. de Stael.

shall it profit a man if he gain the whole world, and lose his own soul," or what shall it avail a nation to save the whole of a miserable trade and lose its liberties?

On the subject of the other independent American states, hitherto it has not been necessary to depart from the rule of our foreign relations, observed in regard to Europe. Whether it will become us to do so or not, will be considered when we take up another resolution, lying on the table. But we may not only adopt this measure; we may go further, we may recognize the government in the Morea, if actually independent, and it will be neither war, nor cause of war, nor any violation of our neutrality. Besides, sir, what is Greece to the allies? A part of the dominions of any of them? By no means. Suppose the people in one of the Philippine isles, or any other spot still more insulated and remote, in Asia or Africa, were to resist their former rulers, and set up and establish a new government, are we not to recognize them in dread of the holy allies? If they are going to interfere, from the danger of the contagion of the example, here is the spot, our own favored land, where they must strike. *This* government, you, Mr. Chairman, and the body over which you preside, are the living and cutting reproach to allied despotism. If we are to offend them, it is not by passing this resolution. We are daily and hourly giving them cause of war. It is *here*, and in our free institutions, that they will assail us. They will attack us because you sit beneath that canopy, and we are freely debating and deliberating upon the great interests of free men, and dispensing the blessings of free government. They will strike, because we pass one of those bills on your table. The passage of the least of them, by our free authority, is more galling to despotic powers, than would be the adoption of this so much dreaded resolution. Pass it, and what do you? You exercise an indisputable attribute of sovereignty, for which you are responsible to none of them. You do the same when you perform any other legislative function; no less. If the allies object to this measure, let them forbid us to take a vote in this house; let them strip us of every attribute of independent government: let them disperse us.

Will gentlemen attempt to maintain that, on the principles of the law of nations, those allies would have *cause* of war? If there be any principle which has been settled for ages, any which is founded in the very nature of things, it is that every independent state has the clear right to judge of the *fact* of the existence of other sovereign powers. I admit that there may be a state of inchoate initiative sovereignty, in which a new government, just struggling into being, cannot be said yet perfectly to exist. But the premature recognition of such new government, can give offence justly to no other than its ancient sovereign. The right of recognition comprehends the right to be informed; and the means of information must, of necessity, depend upon the sound discretion of the party seeking it. You may send out

a commission of inquiry, and charge it with a provident attention to your own people and your own interests. Such will be the character of the proposed agency. It will not necessarily follow that any public functionary will be appointed by the President. You merely grant the means by which the executive may act when *he* thinks proper. What does he tell you in his message? That Greece is contending for her independence; that all sympathize with her; and that no power has declared against her. Pass this resolution, and what is the reply which it conveys to him? "You have sent us grateful intelligence; we feel warmly for Greece; and we grant you money, that, when you shall think it proper, when the interests of this nation shall not be jeopardized, you may depute a commissioner or public agent to Greece." The whole responsibility is then left where the constitution puts it. A member in his place may make a speech or proposition, the house may even pass a vote, in respect to our foreign affairs, which the President, with the whole field lying full before him, would not deem it expedient to effectuate.

But, sir, it is not for Greece alone that I desire to see this measure adopted. It will give to her but little support, and that purely of a moral kind. It is principally for America, for the credit and character of our common country, for our own unsullied name, that I hope to see it pass. What, Mr. Chairman, appearance on the page of history, would a record like this exhibit? "In the month of January, in the year of our Lord and Saviour, 1824, while all European Christendom beheld, with cold and unfeeling indifference, the unexampled wrongs and inexpressible misery of Christian Greece, a proposition was made in the Congress of the United States, almost the sole, the last, the greatest depository of human hope and human freedom, the representatives of a gallant nation, containing a million of freemen ready to fly to arms, while the people of that nation were spontaneously expressing its deep-toned feeling, and the whole continent, by one simultaneous emotion, was rising, and solemnly and anxiously supplicating and invoking high Heaven to spare and succor Greece, and to invigorate her arms, in her glorious cause, while temples and senate houses were alike resounding with one burst of generous and holy sympathy;—in the year of our Lord and Savior, that Savior of Greece and of us—a proposition was offered in the American Congress to send a messenger to Greece, to inquire into her state and condition, with a kind expression of our good wishes and our sympathies—and it was rejected!" Go home, if you can, go home, if you dare, to your constituents, and tell them that you voted it down—meet, if you can, the appalling countenances of those who sent you here, and tell them that you shrank from the declaration of your own sentiments—that you cannot tell how, but that some unknown dread, some indescribable apprehension, some indefinable danger, drove you from your purpose—that the spectres of scimitars, and crowns, and crescents, gleamed before you, and alarmed you; and that you

suppressed all the noble feelings prompted by religion, by liberty, by national independence, and by humanity. I cannot bring myself to believe that such will be the feeling of a majority of this committee. But, for myself, though every friend of the cause should desert it, and I be left to stand alone with the gentleman from Massachusetts, I will give to his resolution the poor sanction of my unqualified approbation.

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## SPEECH IN DEFENCE OF THE AMERICAN SYSTEM,

*Against the British Colonial System.—Delivered in the Senate  
of the United States, February 2d, 3d and 6th, 1832.*

In one sentiment, Mr. President, expressed by the honorable gentleman from South Carolina, (Gen. Hayne,) though perhaps not in the sense intended by him, I entirely concur. I agree with him, that the decision on the system of policy embraced in this debate, involves the future destiny of this growing country. One way, I verily believe, it would lead to deep and general distress, general bankruptcy and national ruin, without benefit to any part of the Union: The other, the existing prosperity will be preserved and augmented, and the nation will continue rapidly to advance in wealth, power and greatness, without prejudice to any section of the confederacy.

Thus viewing the question, I stand here as the humble but zealous advocate, not of the interests of one State, or seven States only, but of the whole Union. And never before have I felt, more intensely, the overpowering weight of that share of responsibility which belongs to me in these deliberations. Never before have I had more occasion, than I now have, to lament my want of those intellectual powers, the possession of which might enable me to unfold to this Senate, and to illustrate to this people, great truths, intimately connected with the lasting welfare of my country. I should, indeed, sink, overwhelmed and subdued beneath the appalling magnitude of the task which lies before me, if I did not feel myself sustained and fortified by a thorough consciousness of the justness of the cause which I have espoused, and by a persuasion, I hope not presumptuous, that it has the approbation of that Providence who has so often smiled upon these United States.

Eight years ago, it was my painful duty to present, to the other House of Congress, an unexaggerated picture of the general distress pervading the whole land. We must all yet remember some of its frightful features. We all know that the people were then oppressed and borne down by an enormous load of

debt; that the value of property was at the lowest point of depression; that ruinous sales and sacrifices were every where made of real estate; that stop laws and relief laws and paper money were adopted to save the people from impending destruction; that a deficit in the public revenue existed, which compelled government to seize upon, and divert from its legitimate object the appropriations to the sinking fund, to redeem the national debt; and that our commerce and navigation were threatened with a complete paralysis. In short, sir, if I were to select any term of seven years since the adoption of the present constitution which exhibited a scene of the most wide-spread dismay and desolation, it would be exactly that term of seven years which immediately preceded the establishment of the tariff of 1824.

I have now to perform the more pleasing task of exhibiting an imperfect sketch of the existing state of the unparalleled prosperity of the country. On a general survey, we behold cultivation extended, the arts flourishing, the face of the country improved, our people fully and profitably employed, and the public countenance exhibiting tranquillity, contentment and happiness. And, if we descend into particulars, we have the agreeable contemplation of a people out of debt; land rising slowly in value, but in a secure and salutary degree; a ready though not extravagant market for all the surplus productions of our industry; innumerable flocks and herds browsing and gamboling on ten thousand hills and plains, covered with rich and verdant grasses; our cities expanded, and whole villages springing up, as it were, by enchantment; our exports and imports increased and increasing, our tonnage, foreign and coastwise, swelling and fully occupied; the rivers of our interior animated by the perpetual thunder and lightning of countless steam-boats; the currency sound and abundant; the public debt of two wars nearly redeemed; and, to crown all, the public treasury overflowing, embarrassing Congress, not to find subjects of taxation, but to select the objects which shall be liberated from the impost. If the term of seven years were to be selected, of the greatest prosperity which this people have enjoyed since the establishment of their present constitution, it would be exactly that period of seven years which immediately followed the passage of the tariff of 1824.

This transformation of the condition of the country from gloom and distress to brightness and prosperity, has been mainly the work of American legislation, fostering American industry, instead of allowing it to be controlled by foreign legislation, cherishing foreign industry. The foes of the American system, in 1824, with great boldness and confidence, predicted, 1st. The ruin of the public revenue, and the creation of a necessity to resort to direct taxation. The gentleman from South Carolina, (Gen. Hayne,) I believe, thought that the tariff of 1824 would operate a reduction of revenue to the large amount of eight

millions of dollars. 2d. The destruction of our navigation. 3d. The desolation of commercial cities. And 4th. The augmentation of the price of objects of consumption, and further decline in that of the articles of our exports. Every prediction which they made has failed—utterly failed. Instead of the ruin of the public revenue, with which they then sought to deter us from the adoption of the American system, we are now threatened with its subversion, by the vast amount of the public revenue produced by that system. Every branch of our navigation has increased. As to the desolation of our cities, let us take, as an example, the condition of the largest and most commercial of all of them, the great northern capital. I have, in my hands, the assessed value of real estate in the city of New-York, from 1817 to 1831. This value is canvassed, contested, scrutinized and adjudged by the proper sworn authorities. It is, therefore, entitled to full credence. During the first term, commencing with 1817, and ending in the year of the passage of the tariff of 1824, the amount of the value of real estate was, the first year, \$57,799,435, and, after various fluctuations in the intermediate period, it settled down at \$52,019,730, exhibiting a decrease, in seven years, of \$5,779,705. During the first year of 1825, after the passage of the tariff, it rose, and, gradually ascending throughout the whole of the latter period of seven years, it finally, in 1831, reached the astonishing height of \$95,716,485! Now, if it be said that this rapid growth of the city of New-York was the effect of *foreign commerce*, then it was not correctly predicted, in 1824, that the tariff would destroy foreign commerce, and desolate our commercial cities. If, on the contrary, it be the effect of internal trade, then internal trade cannot be justly chargeable with the evil consequences imputed to it. The truth is, it is the joint effect of both principles, the domestic industry nourishing the foreign trade, and the foreign commerce in turn nourishing the domestic industry. No where more than in New-York is the combination of both principles so completely developed. In the progress of my argument, I will consider the effect upon the price of commodities produced by the American system, and show that the very reverse of the prediction of its foes, in 1824, has actually happened.

Whilst we thus behold the entire failure of all that was foretold against the system, it is a subject of just felicitation to its friends, that all their anticipations of its benefits have been fulfilled, or are in progress of fulfilment. The honorable gentleman from South Carolina has made an allusion to a speech made by me, in 1824, in the other house, in support of the tariff, and to which, otherwise, I should not have particularly referred. But I would ask any one, who could now command the courage to peruse that long production, what principle there laid down is not true? what prediction then made has been falsified by practical experience?

It is now proposed to abolish the system to which we now s



much of the public prosperity, and it is urged that the arrival of the period of the redemption of the public debt has been confidently looked to as presenting a suitable occasion to rid the country of the evils with which the system is alledged to be fraught. Not an inattentive observer of passing events, I have been aware that, among those who were most early pressing the payment of the public debt, and, upon that ground, were opposing appropriations to other great interests, there were some who cared less about the debt than the accomplishment of other objects. But the people of the United States have not coupled the payment of *their* public debt with the destruction of the protection of *their* industry, against foreign laws and foreign industry. They have been accustomed to regard the extinction of the public debt as relief from a burthen, and not as the infliction of a curse. If it is to be attended or followed by the subversion of the American system, and an exposure of our establishments and our productions to the unguarded consequences of the selfish policy of foreign powers, the payment of the public debt will be the bitterest of curses. Its fruit will be like the fruit

“Of that forbidden tree, whose mortal taste  
Brought death into the world, and all our wo,  
With loss of Eden.”

If the system of protection be founded on principles erroneous in theory, pernicious in practice—above all, if it be unconstitutional, as is alledged, it ought to be forthwith abolished, and not a vestige of it suffered to remain. But, before we sanction this sweeping denunciation, let us look a little at this system, its magnitude, its ramifications, its duration, and the high authorities which have sustained it. We shall see that its foes will have accomplished comparatively nothing, after having achieved their present aim of breaking down our iron-founderies, our woollen, cotton, and hemp manufactories, and our sugar plantations. The destruction of these would, undoubtedly, lead to the sacrifice of immense capital, the ruin of many thousands of our fellow citizens, and incalculable loss to the whole community. But their prostration would not disfigure, nor produce greater effect upon the *whole* system of protection, in all its branches, than the destruction of the beautiful domes upon the capitol would occasion to the magnificent edifice which they surmount. Why, sir, there is scarcely an interest, scarcely a vocation in society, which is not embraced by the beneficence of this system.

It comprehends our coasting tonnage and trade, from which all foreign tonnage is absolutely excluded.

It includes all our foreign tonnage, with the inconsiderable exception made by treaties of reciprocity with a few foreign powers.

It embraces our fisheries, and all our hardy and enterprising fishermen.

It extends to almost every mechanic art: to tanners, cordwain-

ers, tailors, cabinet-makers, hatters, tanners, brass-workers, clock-makers, coach-makers, tallow-chandlers, trace-makers, rope-makers, cork-cutters, tobacconists, whip-makers, paper-makers, umbrella-makers, glass-blowers, stocking-weavers, butter-makers, saddle and harness-makers, cutlers, brush-makers, book-binders, dairy-men, milk-farmers, black-smiths, type-founders, musical instrument-makers, basket-makers, milliners, potters, chocolate-makers, floor-cloth-makers, bonnet-makers, hair-cloth-makers, copper-smiths, pencil-makers, bellows-makers, pocket book-makers, card-makers, glue-makers, mustard-makers, lumber-sawyers, saw-makers, scale-beam-makers, scythe-makers, wood-saw-makers, and many others. The mechanics enumerated enjoy a measure of protection adapted to their several conditions, varying from twenty to fifty per cent. The extent and importance of some of these artizans may be estimated by a few particulars. The tanners, curriers, boot and shoe-makers, and other workers in hides, skins and leather, produce an ultimate value per annum of forty millions of dollars; the manufacturers of hats and caps produce an annual value of fifteen millions; the cabinet-makers, twelve millions; the manufacturers of bonnets and hats for the female sex, lace, artificial flowers, combs, &c. seven millions; and the manufacturers of glass, five millions.

It extends to all lower Louisiana, the Delta of which might as well be submerged again in the Gulf of Mexico, from which it has been a gradual conquest, as now to be deprived of the protecting duty upon its great staple.

It affects the cotton planter\* himself, and the tobacco planter, both of whom enjoy protection.

The total amount of the capital vested in sheep, the land to sustain them, wool, woollen manufactures, and woollen fabrics, and the subsistence of the various persons directly or indirectly employed in the growth and manufacture of the article of wool, is estimated at one hundred and sixty-seven millions of dollars, and the number of persons at 150,000.

The value of iron, considered as a raw material, and of its manufactures, is estimated at twenty-six millions of dollars per annum. Cotton goods, exclusive of the capital vested in the manufacture, and of the cost of the raw material, are believed to amount, annually, to about twenty millions of dollars.

These estimates have been carefully made, by practical men, of undoubted character, who have brought together and embodied their information. Anxious to avoid the charge of exaggeration, they have sometimes placed their estimates below what was believed to be the actual amount of these interests. With regard to the quantity of bar and other iron annually produced, it is derived from the known works themselves; and I know

\* To say nothing of cotton produced in other foreign countries, the cultivation of this article, of a very superior quality, is constantly extending in the adjacent Mexican provinces, and, but for the duty, probably a large amount would be introduced into the United States, down Red river and along the coast of the Gulf of Mexico.

some in western states which they have omitted in their calculations.

Such are some of the items of this vast system of protection; which it is now proposed to abandon. We might well pause and contemplate, if human imagination could conceive the extent of mischief and ruin from its total overthrow, before we proceed to the work of destruction. Its duration is worthy, also, of serious consideration. Not to go behind the constitution, its date is coeval with that instrument. It began on the ever memorable 4th day of July—the 4th day of July, 1789. The second act which stands recorded in the statute book, bearing the illustrious signature of George Washington, laid the corner stone of the whole system. That there might be no mistake about the matter, it was then solemnly proclaimed to the American people and to the world, that it was *necessary* for “the encouragement and *protection* of manufactures,” that duties should be laid. It is in vain to urge the small amount of the measure of the protection then extended. The great principle was then established by the fathers of the constitution, with the father of his country at their head. And it cannot now be questioned, that, if the government had not then been new and the subject untried, a greater measure of protection would have been applied, if it had been supposed necessary. Shortly after, the master minds of Jefferson and Hamilton were brought to act on this interesting subject. Taking views of it appertaining to the departments of foreign affairs and of the treasury, which they respectively filled, they presented, severally, reports which yet remain monuments of their profound wisdom, and came to the same conclusion of protection to American industry. Mr. Jefferson argued that foreign restrictions, foreign prohibitions, and foreign high duties, ought to be met, at home, by American restrictions, American prohibitions, and American high duties. Mr. Hamilton, surveying the entire ground, and looking at the inherent nature of the subject, treated it with an ability which, if ever equalled, has not been surpassed, and earnestly recommended protection.

The wars of the French Revolution commenced about this period, and streams of gold poured into the United States through a thousand channels, opened or enlarged by the successful commerce which our neutrality enabled us to prosecute. We forgot or overlooked, in the general prosperity, the necessity of encouraging our domestic manufactures. Then came the edicts of Napoleon, and the British orders in council; and our embargo, non-intercourse, non-importation, and war, followed in rapid succession. These national measures, amounting to a total suspension, for the period of their duration, of our foreign commerce, afforded the most efficacious encouragement to American manufactures; and accordingly, they every where sprung up. Whilst these measures of restriction and this state of war continued, the manufacturers were stimulated in their

enterprises by every assurance of support, by public sentiment, and by legislative resolves. It was about that period, (1808,) that S. Carolina bore her high testimony to the wisdom of the policy, in an act of her legislature, the preamble of which, now before me, reads, "Whereas the establishment and *encouragement* of domestic manufactures is conducive to the interest of a state, by adding new *incentives to industry*, and as being the means of disposing, to advantage, the surplus productions of the *agriculturist*: and whereas, in the present unexampled state of the world, their establishment in our country is not only *expedient*, but politic, in rendering us *independent* of foreign nations." The legislature, not being competent to afford the most efficacious aid, by imposing duties on foreign rival articles, proceeded to incorporate a company.

Peace, under the treaty of Ghent, returned in 1815, but there did not return with it the golden days which preceded the edicts levelled at our commerce by Great Britain and France. It found all Europe tranquilly resuming the arts and the business of civil life. It found Europe no longer the consumer of our surplus, and the employer of our navigation, but excluding, or heavily burdening, almost all the productions of our agriculture; and our rivals in manufactures, in navigation, and in commerce. It found our country, in short, in a situation totally different from all the past—new and untried. It became necessary to adapt our laws, and especially our laws of impost, to the new circumstances in which we found ourselves. Accordingly, that eminent and lamented citizen, then at the head of the treasury, (Mr. Dallas,) was required, by a resolution of the House of Representatives, under date the 23d day of February, 1815, to prepare and report to the succeeding session of Congress, a system of revenue conformable with the actual condition of the country. He had the circle of a whole year to perform the work, consulted merchants, manufacturers, and other practical men, and opened an extensive correspondence. The report which he made, at the session of 1816, was the result of his inquiries and reflections, and embodies the principles which he thought applicable to the subject. It has been said that the tariff of 1816 was a measure of mere revenue; and that it only reduced the war duties to a peace standard. It is true that the question then was, how much, and in what way, should the double duties of the war be reduced? Now, also, the question is, on what articles shall the duties be reduced so as to subject the amounts of the future revenue to the wants of the government? Then it was deemed an inquiry of the first importance, as it should be now, how the reduction should be made, so as to secure proper encouragement to our domestic industry. That this was a leading object in the arrangement of the tariff of 1816, I well remember, and it is demonstrated by the language of Mr. Dallas. He says, in his report, "There are few, if any governments, which do not regard the establishment of domestic manufactures as a chief

object of public policy. The United States have *always* so regarded it. \* \* \* \* The demands of the country, while the acquisitions of supplies from foreign nations was either prohibited or impracticable, may have afforded a sufficient inducement for this investment of capital, and this application of labor; but the inducement, in its necessary extent, must fail when the day of *competition* returns. Upon that change in the condition of the country, the preservation of the manufactures, which private citizens, under favorable auspices, have constituted the property of the nation, becomes a consideration of general policy, to be resolved by a recollection of past embarrassments; by the certainty of an increased difficulty of reinstating, upon any emergency, the manufactures which shall be allowed to perish and pass away," &c. The measure of protection which he proposed was not adopted, in regard to some leading articles, and there was great difficulty in ascertaining what it ought to have been. But the *principle* was then distinctly asserted, and fully sanctioned.

The subject of the American system was again brought up in 1820, by the bill reported by the chairman of the committee of manufactures, now a member of the bench of the supreme court of the United States, and the principle was successfully maintained by the representatives of the people; but the bill which they passed was defeated in the senate. It was revived in 1824, the whole ground carefully and deliberately explored, and the bill then introduced, receiving all the sanctions of the constitution, became the law of the land. An amendment of the system was proposed in 1828, to the history of which I refer with no agreeable recollections. The bill of that year, in some of its provisions, was framed on principles directly adverse to the declared wishes of the friends of the policy of protection. I have heard—without vouching for the fact—that it was so framed, upon the advice of a prominent citizen, now abroad, with the view of ultimately defeating the bill, and with assurances that, being altogether unacceptable to the friends of the American system, the bill would be lost. Be that as it may, the most exceptionable features of the bill were stamped upon it, against the earnest remonstrances of the friends of the system, by the votes of southern members, upon a principle, I think, as unsound in legislation as it is reprehensible in ethics. The bill was passed, notwithstanding, it having been deemed better to take the bad along with the good which it contained, than reject it altogether. Subsequent legislation has corrected the error then perpetrated, but still that measure is vehemently denounced by gentlemen who contributed to make it what it was.

Thus, sir, has this great system of protection been gradually built, stone upon stone, and step by step, from the 4th of July, 1789, down to the present period. In every stage of its progress it has received the deliberate sanction of Congress. A vast majority of the people of the United States has approved, and

continues to approve it. Every chief magistrate of the United States, from Washington to the present, in some form or other, has given to it the authority of his name; and however the opinions of the existing President are interpreted south of Mason's and Dixon's line, on the north they are at least understood to favor the establishment of a *judicious* tariff.

The question, therefore, which we are now called upon to determine, is not whether we shall establish a new and doubtful system of policy, just proposed, and for the first time presented to our consideration; but whether we shall break down and destroy a long established system, patiently and carefully built up, and sanctioned, during a series of years, again and again, by the nation and its highest and most revered authorities. And are we not bound deliberately to consider whether we can proceed to this work of destruction without a violation of the public faith? The people of the United States have justly supposed that the policy of protecting their industry against foreign legislation and foreign industry, was fully settled, not by a single act, but by repeated and deliberate acts of government, performed at distant and frequent intervals. In full confidence that the policy was firmly and unchangeably fixed, thousands upon thousands have invested their capital, purchased a vast amount of real and other estate, made permanent establishments, and accommodated their industry. Can we expose to utter and irretrievable ruin this countless multitude, without justly incurring the reproach of violating the national faith?

I shall not discuss the constitutional question. Without meaning any disrespect to those who raise it, if it be debateable, it has been sufficiently debated. The gentleman from South Carolina suffered it to fall unnoticed from his budget; and it was not until after he had closed his speech and resumed his seat, that it occurred to him that he had forgotten it, when he again addressed the senate, and, by a sort of protestation against any conclusion from his silence, put forward the objection. The recent free trade convention at Philadelphia, it is well known, were divided on the question; and although the topic is noticed in their address to the public, they do not avow their own belief that the American system is unconstitutional, but represent that such is the opinion of respectable portions of the American people. Another address to the people of the United States, from a high source, during the past year, treating this subject, does not assert the opinion of the distinguished author, but states that of others to be that it is unconstitutional. From which I infer that he did not, himself, believe it unconstitutional.

[Here the Vice President interposed, and remarked that, if the Senator from Kentucky alluded to him, he must say that his opinion was, that the measure was unconstitutional.]

When, sir, I contended with you, side by side, and with perhaps less zeal than you exhibited, in 1816, I did not understand you then to consider the policy forbidden by the constitution.

[The Vice-President again interposed, and said that the constitutional question was not debated at that time, and that he had never expressed an opinion contrary to that now intimated.]

I give way with pleasure to these explanations, which I hope will always be made when I say any thing bearing on the individual opinions of the chair. I know the delicacy of the position, and sympathize with the incumbent, whoever he may be. It is true, the question was not debated in 1816; and why not? Because it was not debateable; it was then believed not fairly to arise. It never has been made as a distinct, substantial and leading point of objection. It never was made until the discussion of the tariff of 1824,\* when it was rather hinted at as against the *spirit* of the constitution, than formally announced as being contrary to the provisions of that instrument. What was not dreamt of before, or in 1816, and scarcely thought of in 1824, is now made, by excited imaginations, to assume the imposing form of a serious constitutional barrier.

Such are the origin, duration, extent and sanctions of the policy which we are now called upon to subvert. Its beneficial effects, although they may vary in degree, have been felt in all parts of the Union. To none, I verily believe, has it been prejudicial. To the north, every where, testimonials are borne to the high prosperity which it has diffused. There, all branches of industry are animated and flourishing. Commerce, foreign and domestic, active; cities and towns springing up, enlarging and beautifying; navigation fully and profitably employed, and the whole face of the country smiling with improvement, cheerfulness and abundance. The gentleman from South Carolina has supposed that we, in the west, derive no advantages from this system. He is mistaken. Let him visit us, and he will find, from the head of La Belle Riviere, at Pittsburgh, to America, at its mouth, the most rapid and gratifying advances. He will behold Pittsburgh itself, Wheeling, Portsmouth, Maysville, Cincinnati, Louisville, and numerous other towns, lining and ornamenting the banks of that noble river, daily extending their limits, and prosecuting, with the greatest spirit and profit, numerous branches of the manufacturing and mechanic arts. If he will go into the interior, in the State of Ohio, he will there perceive the most astonishing progress in agriculture, in the useful arts, and in all the improvements to which they both directly conduce. Then let him cross over into my own, my favorite State, and contemplate the spectacle which is there exhibited. He will perceive numerous villages, not large, but neat, thriving, and some of them highly ornamented; many manufactories of hemp, cotton, wool, and other articles. In various parts of the country, and especially in the Elkhorn region, an endless succession of natural parks; the forests thinned; fallen trees and undergrowth cleared away; large herds and flocks feeding on

\* Mr. Clay has been since reminded that the objection, in the same way, was first urged in the debate of 1820.



luxuriant grasses; and interspersed with comfortable, sometimes elegant mansions, surrounded by extensive lawns. The honorable gentleman from South Carolina says, that a profitable trade was carried on from the west, through the Seleuda gap, in mules, horses and other live stock, which has been checked by the operation of the tariff. It is true that such a trade was carried on between Kentucky and South Carolina, mutually beneficial to both parties; but, several years ago, resolutions, at popular meetings, in Carolina, were adopted, not to purchase the produce of Kentucky, by way of punishment for her attachment to the tariff. They must have supposed us as stupid as the sires of one of the descriptions of the stock of which that trade consisted, if they imagined that their resolutions would affect *our* principles. Our drovers cracked their whips, blew their horns, and passed the Seleuda gap, to other markets, where better humors existed, and equal or greater profits were made. I have heard of your successor in the House of Representatives, Mr. President, this anecdote: that he joined in the adoption of those resolutions, but when, about Christmas, he applied to one of his South Carolina neighbors, to purchase the regular supply of pork for the ensuing year, he found that he had to pay two prices for it; and he declared if *that* were the patriotism on which the resolutions were based, he would not conform to them, and, in point of fact, laid in his annual stock of pork by purchase from the first passing Kentucky drover. That trade, now partially resumed, was maintained by the sale of western productions, on the one side, and Carolina money on the other. From that condition of it, the gentleman from South Carolina might have drawn this conclusion, that an advantageous trade may exist, although one of the parties to it pays in specie for the production which he purchases from the other; and consequently that it does not follow, if we did not purchase British fabrics, that it might not be the interest of England to purchase our raw material of cotton. The Kentucky drover received the South Carolina specie, or, taking bills, or the evidences of deposit in the banks, carried these home, and, disposing of them to the merchant, he brought out goods, of foreign or domestic manufacture, in return. Such is the circuitous nature of trade and remittance, which no nation understands better than Great Britain.

Nor has the system which has been the parent source of so much benefit to other parts of the Union, proved injurious to the cotton growing country. I cannot speak of South Carolina itself, where I have never been, with so much certainty; but of other portions of the Union in which cotton is grown, especially those bordering on the Mississippi, I can confidently speak. If cotton planting is less profitable than it was, that is the result of increased production; but believe it to be still the most profitable investment of capital of any branch of business in the United States. And if a committee were raised, with power to send for persons and papers, I take it upon myself to say, that such

would be the result of the inquiry. In Kentucky, I know many individuals who have their cotton plantations below, and retain their residence in that State, where they remain during the sickly season; and they are all, I believe, without exception, doing well. Others, tempted by their success, are constantly engaging in the business, whilst scarcely any comes from the cotton region to engage in western agriculture. A friend, now in my eye, a member of this body, upon a capital of less than seventy thousand dollars, invested in a plantation and slaves, made, the year before last, sixteen thousand dollars. A member of the other House, I understand, who, without removing himself, sent some of his slaves to Mississippi, made, last year, about twenty per cent. Two friends of mine, in the latter State, whose annual income is from thirty to sixty thousand dollars, being desirous to curtail their business, have offered estates for sale which they are willing to show, by regular vouchers of receipt and disbursement, yield eighteen per cent. per annum. One of my most opulent acquaintances, in a county adjoining to that in which I reside, having married in Georgia, has derived a large portion of his wealth from a cotton estate there situated.

The loss of the tonnage of Charleston, which has been dwelt on, does not proceed from the tariff; it never had a very large amount, and it has not been able to retain what it had, in consequence of the operation of the principle of free trade on its navigation. Its tonnage has gone to the more enterprizing and adventurous tars of the northern States, with whom those of the city of Charleston could not maintain a successful competition, in the freedom of the coasting trade existing between the different parts of the Union. That this must be the true cause, is demonstrated by the fact, that, however it may be with the port of Charleston, our coasting tonnage, generally, is constantly increasing. As to the foreign tonnage, about one-half of that which is engaged in the direct trade between Charleston and Great Britain, is English; proving that the tonnage of South Carolina cannot maintain itself in a competition, under the free and equal navigation secured by our treaty with that power.

When gentlemen have succeeded in their design of an immediate or gradual destruction of the American system, what is their substitute? Free trade! Free trade! The call for free trade is as unavailing as the cry of a spoiled child, in its nurse's arms, for the moon, or the stars that glitter in the firmament of heaven. It never has existed, it never will exist. Trade implies, at least, two parties. To be free, it should be fair, equal and reciprocal. But if we throw our ports wide open to the admission of foreign productions, free of all duty, what ports, of any other foreign nation, shall we find open to the free admission of our surplus produce? We may break down all barriers to free trade, on our part, but the work will not be complete until foreign powers shall have removed theirs. There would be freedom on one side, and restrictions, prohibitions and exclu-

sions on the other. The bolts, and the bars, and the chains, of all other nations, will remain undisturbed. It is, indeed, possible, that our industry and commerce would accommodate themselves to this unequal and unjust state of things; for, such is the flexibility of our nature, that it bends itself to all circumstances. The wretched prisoner, incarcerated in a jail, after a long time becomes reconciled to his solitude, and regularly notches down the passing days of his confinement.

Gentlemen deceive themselves. It is not free trade that they are recommending to our acceptance. It is, in effect, the British colonial system that we are invited to adopt; and, if their policy prevail, it will lead, substantially, to the recolonization of these States, under the commercial dominion of Great Britain. And whom do we find some of the principal supporters, out of Congress, of this foreign system? Mr. President, there are some foreigners who always remain exotics, and never become naturalized in our country; whilst, happily, there are many others who readily attach themselves to our principles and our institutions. The honest, patient and industrious German readily unites with our people, establishes himself upon some of our fat land, fills his capacious barn, and enjoys, in tranquillity, the abundant fruits which his diligence gathers around him, always ready to fly to the standard of his adopted country, or of its laws, when called by the duties of patriotism. The gay, the versatile, the philosophic Frenchman, accommodating himself cheerfully to all the vicissitudes of life, incorporates himself, without difficulty, in our society. But, of all foreigners, none amalgamate themselves so quickly with our people as the natives of the Emerald Isle. In some of the visions which have passed through my imagination, I have supposed that Ireland was, originally, part and parcel of this continent, and that, by some extraordinary convulsion of nature, it was torn from America, and, drifting across the ocean, was placed in the unfortunate vicinity of Great Britain. The same open-heartedness; the same generous hospitality; the same careless and uncalculating indifference about human life, characterize the inhabitants of both countries. Kentucky has been sometimes called the Ireland of America. And I have no doubt that, if the current of emigration were reversed, and set from America upon the shores of Europe, instead of bearing from Europe to America, every American emigrant to Ireland would there find, as every Irish emigrant here finds, a hearty welcome and a happy home!

But, sir, the gentleman to whom I am about to allude, although long a resident of this country, has no feelings, no attachments, no sympathies, no principles, in common with our people. Near fifty years ago, Pennsylvania took him to her bosom, and warmed, and cherished, and honored him; and how does he manifest his gratitude? By aiming a vital blow at a system endeared to her by a thorough conviction that it is indispensable to her pros-

perity. He has filled, at home and abroad, some of the highest offices under this government, during thirty years, and he is still at heart an alien. The authority of his name has been invoked, and the labors of his pen, in the form of a memorial to Congress, have been engaged, to overthrow the American system, and to substitute the foreign. Go home to your native Europe, and there inculcate, upon her sovereigns, your Utopian doctrines of free trade, and, when you have prevailed upon them to unseal their ports, and freely admit the produce of Pennsylvania, and other States, come back, and we shall be prepared to become converts, and to adopt your faith.

A Mr. Sarchet also makes no inconsiderable figure in the common attack upon our system. I do not know the man, but I understand he is an unnaturalized emigrant from the island of Guernsey, situated in the channel which divides France and England. The principal business of the inhabitants is that of driving a contraband trade with the opposite shores, and Mr. Sarchet, educated in that school, is, I have been told, chiefly engaged in employing his wits to elude the operation of our revenue laws, by introducing articles at less rates of duty than they are justly chargeable with, which he effects by varying the denominations, or slightly changing their forms. This man, at a former session of the senate, caused to be presented a memorial signed by some 150 pretended workers in iron. Of these a gentleman made a careful inquiry and examination, and he ascertained that there were only about ten of the denomination represented; the rest were tavern keepers, porters, merchants' clerks, hackney coachmen, &c. I have the most respectable authority, in black and white, for this statement.

[Here Gen. Hayne asked, who? and was he a manufacturer? Mr. Clay replied, Col. Murray, of New-York, a gentleman of the highest standing for honor, probity, and veracity; that he did not know whether he was a manufacturer or not, but the gentleman might take him as one.\*]

Whether Mr. Sarchet got up the late petition presented to the senate from the journeymen tailors of Philadelphia, or not, I do not know. But I should not be surprised if it were a movement of his, and if we should find that he has *cabbaged* from other classes of society to swell out the number of signatures.

To the facts manufactured by Mr. Sarchet, and the theories by Mr. Gallatin, there was yet wanting one circumstance to recommend them to favorable consideration, and that was the authority of some high name. There was no difficulty in obtaining one from a British repository. The honorable gentleman has cited a speech of my lord Goderich, addressed to the British parliament, in favor of free trade, and full of deep regret that old England *could not* possibly conform her practice of rigorous re-

\* Mr. Clay subsequently understood that Col. Murray was a merchant.

striction and exclusion to her liberal *doctrines* of unfettered commerce, so earnestly recommended to foreign powers. Sir, said Mr. C., I know my lord Goderich very well, although my acquaintance with him was prior to his being summoned to the British house of peers. We both signed the convention between the United States and Great Britain of 1815. He is an honorable man, frank, possessing business, but ordinary talents, about the stature and complexion of the honorable gentleman from South Carolina, a few years older than he, and every drop of blood running in his veins being pure and unadulterated Anglo-Saxon blood. If he were to live to the age of Methuselah, he could not make a speech of such ability and eloquence as that which the gentleman from South Carolina recently delivered to the senate; and there would be much more fitness in my lord Goderich making quotations from the speech of the honorable gentleman, than his quoting, as authority, the theoretical doctrines of my lord Goderich. We are too much in the habit of looking abroad, not merely for manufactured articles, but for the sanction of high names, to support favorite theories. I have seen and closely observed, the British parliament, and, without derogating from its justly elevated character, I have no hesitation in saying, that in all the attributes of order, dignity, patriotism and eloquence, the American Congress would not suffer, in the smallest degree, by a comparison with it.

I dislike this resort to authority, and especially *foreign* and *interested* authority, for the support of principles of public policy. I would greatly prefer to meet gentlemen upon the broad ground of fact, of experience, and of reason; but, since they will appeal to British names and authority, I feel myself compelled to imitate their bad example. Allow me to quote from the speech of a member of the British parliament, bearing the same family name with my lord Goderich, but whether or not a relation of his, I do not know. The member alluded to was arguing against the violation of the treaty of Methuen—that treaty, not less fatal to the interests of Portugal than would be the system of gentlemen to the best interests of America—and he went on to say:

*"It was idle for us to endeavor to persuade other nations to join with us in adopting the principles of what was called 'free trade.' Other nations knew, as well as the noble lord opposite, and those who acted with him, what we meant by 'free trade' was nothing more nor less than, by means of the great advantages we enjoyed, to get a monopoly of all their markets for our manufactures, and to prevent them, one and all, from ever becoming manufacturing nations. When the system of reciprocity and free trade had been proposed to a French ambassador, his remark was, that the plan was excellent in theory, but, to make it fair in practice, it would be necessary to defer the attempt to put it in execution for half a century, until France should be on the same footing with Great Britain, in marine, in manufactures, in capital, and the many other peculiar advantages which it now*

enjoyed. The policy that France acted on, was that of encouraging its *native* manufactures, and it was a *wise* policy ; because if it were freely to admit our manufactures, it would speedily be reduced to the rank of an *agricultural nation* ; and *therefore* a poor nation, as all must be that depend *exclusively* upon agriculture. America acted too upon the same principle with France. America legislated for futurity—legislated for an increasing population. America, too, was prospering under this system. In twenty years, America would be independent of England for manufactures altogether. \* \* \* \* \* But since the peace, France, Germany, America, and all the other countries of the world, had proceeded upon the principle of encouraging and protecting native manufactures."

But I have said that the system nominally called "free trade," so earnestly and eloquently recommended to our adoption, is a mere revival of the British colonial system, forced upon us by Great Britain during the existence of our colonial vassalage. The whole system is fully explained and illustrated in a work published as far back as the year 1750, entitled "The trade and navigation of Great Britain, considered by Joshua Gee," with extracts from which I have been furnished by the diligent researches of a friend. It will be seen from these, that the South Carolina policy now, is identical with the long cherished policy of Great Britain, which remains the same as it was when the thirteen colonies were part of the British empire. In that work the author contends—

"1. That manufactures, in the American colonies, should be discouraged or prohibited.

"Great Britain, with its dependencies, is doubtless as well able to subsist within itself as any nation in Europe : We have an enterprising people, fit for all the arts of peace and war : We have provisions in abundance, and those of the best sort, and are able to raise sufficient for double the number of inhabitants : We have the very best materials for clothing, and want nothing either for use or even for luxury, but what we have at home or might have from our colonies : So that we might make such an intercourse of trade among ourselves, or between us and them, as would maintain a vast navigation. But we ought always to keep a watchful eye over our colonies, to restrain them from setting up any of the manufactures which are carried on in Britain ; and any such attempts should be crushed in the beginning ; for, if they are suffered to grow up to maturity, it will be difficult to suppress them."—Pages 177, 8, 9.

"Our colonies are much in the same state Ireland was in, when they began the woollen manufactory, and, as their numbers increase, will fall upon manufactures for clothing themselves, if due care be not taken to find employment for them in raising such productions as may enable them to furnish themselves with all their necessaries from us."

Then it was the object of this British economist to adapt the

means or wealth of the colonists to the supply required by their necessities, and to make the mother country the only source of that supply. Now it seems the policy is only so far to be reversed, that we must continue to import necessities from Great Britain, in order to enable her to purchase raw cotton from us.

“I should, therefore, think it worthy the care of the government to endeavor, by all possible means, to encourage them in raising of silk, hemp, flax, iron, [only pig, to be hammered in England] pot ash, &c., by giving them competent bounties in the beginning, and sending over judicious and skilful persons, at the public charge, to assist and instruct them in the most proper methods of management, which, in my apprehension, would lay a foundation for establishing the most profitable trade of any we have. And considering the commanding situation of our colonies along the sea-coast; the great convenience of navigable rivers in all of them; the cheapness of land, and the easiness of raising provisions; great numbers of people would transport themselves thither to settle upon such improvements. Now, as people have been filled with fears that the colonies, if encouraged to raise rough materials, would set up for themselves, a *little regulation* would remove all those jealousies out of the way. They have never thrown or wove any silk as yet that we have heard of. Therefore if a law was made to prohibit the use of every throwster’s mill, or doubling or horsling silk with any machine whatever, they would then *send it to us raw*. And as they will have the providing rough materials to themselves, so shall we have the manufacturing of them. If encouragement be given for raising hemp, flax, &c., doubtless they will soon begin to manufacture, if not *prevented*. Therefore, to stop the progress of any such manufacture, it is proposed that no weaver there shall have *liberty* to set up any looms without first registering at an office kept for that purpose, and the name and place of abode of any journeyman that shall work with him. But if any *particular inhabitant* shall be inclined to have any linen or woollen made of their own spinning, they should not be abridged of the same liberty that they now make use of, viz: to carry to a weaver, (who shall be *licensed* by the governor), and have it wrought up for the use of the family, but not to be sold to any person in a private manner, nor exposed to any market or fair upon pain of forfeiture.

“And, inasmuch as they have been supplied with all their manufactures from hence, except what is used in building of ships and other country work, one half of our exports being supposed to be in NAILS—a manufacture which they allow has never hitherto been carried on among them—it is proposed they shall, *for time to come*, never erect the manufacture of any under the size of a two shilling nail, horse nails excepted; that all slitting mills and engines, for drawing wire, or weaving stockings, *be put down*, and that every smith who keeps a common forge or shop, shall register his name and place of abode, and the name



of every *servant* which he shall employ, which license shall be renewed once every year, and *pay* for the *liberty* of working at such trade. That all negroes shall be prohibited from weaving either linen or woollen, or spinning or combing of wool, or working at any manufacture of iron, further than making it into pig or bar iron. That they also be prohibited from manufacturing hats, stockings, or *leather*, of any kind. This limitation will not abridge the planters of any privilege they now enjoy. On the contrary, it will turn their industry to promoting and raising those rough materials."

The author then proposes that the board of trade and plantations should be furnished with statistical accounts of the various *permitted* manufactures, to enable them to encourage or depress the industry of the colonists, and prevent the danger of interference with British industry.

"It is hoped that this method would allay the *heat* that *some people* have shown, for destroying the iron works on the plantations, and pulling down all their forges—taking away, in a violent manner, their estates and properties—preventing the husbandmen from getting their ploughshares, carts, and other utensils, mended; destroying the manufacture of ship building, by depriving them of the liberty of making bolts, spikes, and other things proper for carrying on that work, by which article returns are made for purchasing our woollen manufactures."—Pages 87, 88, 89.

Such is the picture of colonists dependent upon the mother country for their necessary supplies, drawn by a writer who was not among the number of those who desired to debar them the means of building a vessel, erecting a forge, or mending a ploughshare, but who was willing to promote their growth and prosperity, as far as was consistent with the paramount interests of the manufacturing or parent state.

"2. The advantages to Great Britain from keeping the colonists dependent on her for their essential supplies.

"If we examine into the circumstances of the inhabitants of our plantations, and our own, it will appear that not one-fourth part of their product redounds to their *own profit*; for, out of all that comes here, they only carry back clothing and other accommodations for their families, all of which is of the merchandise and manufacture of this kingdom."

After showing how this system tends to concentrate all the surplus of acquisition over absolute expenditure, in England, he says:

"All these advantages we receive by the plantations, besides the mortgages on the planters' estates, and the high interest they pay us, which is very considerable; and therefore very great care ought to be taken, in regulating all affairs of the colonists, that the planters be not put under *too many difficulties*, but encouraged to go on cheerfully.

“New-England, and the northern colonies, have not commodities and products enough to send us in return for purchasing their necessary clothing, but are under very great difficulties; and therefore any ordinary sort sell with them. And when they have grown out of *fashion* with us, they are new fashioned *enough* there.”

Sir, I cannot go on with this disgusting detail. Their refuse goods; their old shop-keepers; their cast-off clothes good enough for us! Was there ever a scheme more artfully devised by which the energies and faculties of one people should be kept down and rendered subservient to the pride and the pomp, and the power of another! The system then proposed differs only from that which is now recommended, in one particular; that was intended to be enforced by power, this would not be less effectually executed by the force of circumstances. A gentleman in Boston, (Mr. Lee) the agent of the free trade convention, from whose exhaustless mint there is a constant issue of reports, seems to envy the blessed condition of dependent Canada, when compared to the oppressed state of this Union; and it is a fair inference from the view which he presents, that he would have us hasten back to the golden days of that colonial bondage, which is so well depicted in the work from which I have been quoting. Mr. Lee exhibits two tabular statements, in one of which he presents the high duties which he represents to be paid in the ports of the United States, and, in the other, those which are paid in Canada, generally about two per cent. *ad valorem*. But did it not occur to him that the duties levied in Canada are paid chiefly on British manufactures, or on articles passing from one part to another of a common empire; and that to present a parallel case in the United States, he ought to have shown that importations made into one state from another which are now free, are subject to the same or higher duties than are paid in Canada?

I will now, Mr. President, proceed to a more particular consideration of the arguments urged against the protective system, and an inquiry into its practical operation, especially on the cotton growing country. And, as I wish to state and meet the argument fairly, I invite the correction of my statement of it, if necessary. It is alledged that the system operates prejudicially to the cotton planter, by diminishing the foreign demand for his staple; that we cannot sell to Great Britain, unless we buy from her; that the import duty is equivalent to an export duty, and falls upon the cotton grower; that South Carolina pays a disproportionate quota of the public revenue; that an abandonment of the protective policy would lead to an augmentation of our exports of an amount not less than one hundred and fifty millions of dollars; and finally, that the south cannot partake of the advantages of manufacturing, if there be any. Let us examine these various propositions in detail. 1. That the foreign demand for cotton is diminished; and that we cannot sell to Great

Britain unless we buy from her. The demand of both our great foreign customers is constantly and annually increasing. It is true, that the ratio of the increase may not be equal to that of production; but this is owing to the fact that the power of producing the raw material is much greater, and is, therefore, constantly in advance of the power of consumption. A single fact will illustrate. The average produce of laborers engaged in the cultivation of cotton may be estimated at five bales, or fifteen hundred weight to the hand. Supposing the annual average consumption of each individual who uses cotton cloth to be five pounds, one hand can produce enough of the raw material to clothe three hundred.

The argument comprehends two errors, one of fact and the other of principle. It assumes that we do not in fact purchase of Great Britain. What is the true state of the case? There are certain, but very few articles which it is thought sound policy requires that we should manufacture at home, and on these the tariff operates. But, with respect to all the rest, and much the larger number of articles of taste, fashion, and utility, they are subject to no other than revenue duties and are freely introduced. I have before me from the treasury a statement of our imports from England, Scotland and Ireland, including ten years, preceding the last, and three quarters of the last year, from which it will appear that, although there are some fluctuations in the amount of the different years, the largest amount imported in any one year has been since the tariff of 1824, and that the last year's importation, when the returns of the fourth quarter shall be received, will probably be the greatest in the whole term of eleven years.

Now, if it be admitted that there is a less amount of the protected articles imported from Great Britain, she may be, and probably is, compensated for the deficiency, by the increased consumption in America of the articles of her industry not falling within the scope of the policy of our protection. The establishment of manufactures among us excites the creation of wealth, and this gives new powers of consumption, which are gratified by the purchase of foreign objects. A poor nation can never be a great consuming nation. Its poverty will limit its consumption to bare subsistence.

The erroneous principle which the argument includes, is, that it devolves on us the duty of taking care that Great Britain shall be enabled to purchase from us without exacting from Great Britain the corresponding duty. If it be true, on one side, that nations are bound to shape their policy in reference to the ability of foreign powers, it must be true on both sides of the Atlantic. And this reciprocal obligation ought to be emphatically regarded towards the nation supplying the raw material, by the manufacturing nation, because the industry of the latter gives four or five values to what had been produced by the industry of the former.

But, does Great Britain practice towards us upon the princi-

ples which we are now required to observe in regard to her? The exports to the United Kingdom, as appears from the same treasury statement just adverted to, during eleven years, from 1821 to 1831, and exclusive of the fourth quarter of the last year, fall short of the amount of imports by upwards of forty-six millions of dollars, and the total amount, when the returns of that quarter are received, will exceed fifty millions of dollars! It is surprising how we have been able to sustain, for so long a time, a trade so very unequal. We must have been absolutely ruined by it, if the unfavorable balance had not been neutralized by more profitable commerce with other parts of the world. Of all nations, Great Britain has the least cause to complain of the trade between the two countries. Our imports from that single power are nearly one-third of the entire amount of our importations from all foreign countries together. Great Britain constantly acts on the maxim of buying only what she wants and cannot produce, and selling to foreign nations the utmost amount she can. In conformity with this maxim, she excludes articles of prime necessity produced by us—equally if not more necessary than any of her industry which we tax, although the admission of those articles would increase our ability to purchase from her, according to the argument of gentlemen.

If we purchased still less from Great Britain than we do, and our conditions were reversed, so that the value of her imports from this country exceeded that of her exports to it, she would only then be compelled to do what we have so long done, and what South Carolina does, in her trade with Kentucky, make up for the unfavorable balance by trade with other places and countries. How does she now dispose of the one hundred and sixty millions of dollars' worth of cotton fabrics, which she annually sells? Of that amount the United States do not purchase five per cent. What becomes of the other ninety-five per cent? Is it not sold to other powers, and would not their markets remain, if ours were totally shut? Would she not continue, as she now finds it her interest, to purchase the raw material from us, to supply those markets? Would she be guilty of the folly of depriving herself of markets to the amount of upwards of \$150,000,000, because we refused her a market for some eight or ten millions?

But if there were a diminution of the British demand for cotton equal to the loss of a market for the few British fabrics which are within the scope of our protective policy, the question would still remain, whether the cotton planter is not amply indemnified by the creation of additional demand elsewhere? With respect to the cotton-grower, it is the *totality* of the demand, and not its *distribution*, which affects his interests. If any system of policy will augment the aggregate of the demand, that system is favorable to his interests, although its tendency may be to vary the theatre of the demand. It could not, for example, be injurious to him, if, instead of Great Britain continuing to receive the en-

ture quantity of cotton which she now does, two or three hundred thousand bales of it were taken to the other side of the channel, and increased, to that extent, the French demand. It would be better for him, because it is always better to have several markets than one. Now, if, instead of a transfer to the opposite side of the channel, of those two or three hundred thousand bales, they are transported to the northern states, can that be injurious to the cotton grower? Is it not better for him? Is it not better to have a market at home, unaffected by war or other foreign causes, for that amount of his staple?

If the establishment of American manufactures, therefore, had the sole effect of creating a new, and an American demand for cotton, *exactly* to the same extent in which it lessened the British demand, there would be no just cause of complaint against the tariff. The gain in one place would precisely equal the loss in the other. But the true state of the matter is much more favorable to the cotton grower. It is calculated that the cotton manufactories of the United States absorb at least 200,000 bales of cotton annually. I believe it to be more. The two ports of Boston and Providence alone received, during the last year, near 110,000 bales. The amount is annually increasing. The raw material of that two hundred thousand bales is worth six millions, and there is an additional value conferred by the manufacturer, of eighteen millions; it being generally calculated that, in such cotton fabrics as we are in the habit of making, the manufacture constitutes three fourths of the value of the article. If, therefore, these twenty-four millions worth of cotton fabrics were not made in the United States, but were manufactured in Great Britain, in order to obtain them, we should have to add to the already enormous disproportion between the amount of our imports and exports, in the trade with Great Britain, the further sum of twenty-four millions, or, deducting the price of the raw material, eighteen millions! And will gentlemen tell me how it would be possible for this country to sustain such a ruinous trade? From all that portion of the United States lying north and east of James river, and west of the mountains, Great Britain receives comparatively nothing. How would it be possible for the inhabitants of that largest portion of our territory, to supply themselves with cotton fabrics, if they were brought from England exclusively? They could not do it. But for the existence of the American manufacture, they would be compelled greatly to curtail their supplies, if not absolutely to suffer in their comforts. By its existence at home, the circle of those exchanges is created which reciprocally diffuses among all who are embraced within it the productions of their respective industry. The cotton grower sells the raw material to the manufacturer; he buys the iron, the bread, the meal, the coal, and the countless number of objects of his consumption, from his fellow-citizens, and they in turn purchase his fabrics. Putting it upon the ground merely of supplying those with necessary articles who could not other-

wise obtain them, ought there to be, from any quarter, an objection to the only system by which that object can be accomplished? But can there be any doubt, with those who will reflect, that the actual amount of cotton consumed is increased by the home manufacture? The main argument of gentlemen is founded upon the idea of mutual ability resulting from mutual exchanges. They would furnish an ability to foreign nations by purchasing from them, and I to our own people, by exchanges at home. If the American manufacture were discontinued, and that of England were to take its place, how would she sell the additional quantity of twenty-four millions of cotton goods, which we now make? To us? That has been shown to be impracticable. To other foreign nations? She has already pushed her supplies to them to the utmost extent. The ultimate consequence would, then, be to diminish the total consumption of cotton, to say nothing now of the reduction of price that would take place by throwing into the ports of Great Britain the two hundred thousand bales which, no longer being manufactured in the United States, would go thither.

2. That the import duty is equivalent to an export duty, and falls on the producer of cotton.

[Here Gen. Hayne explained, and said that he never contended that an import duty was equivalent to an export duty, under all circumstances; he had explained in his speech his ideas of the precise operation of the existing system. To which Mr. Clay replied that he had seen the argument so stated in some of the ingenious essays from the South Carolina press, and would therefore answer it.]

The framers of our constitution, by granting the power to Congress to lay imports, and prohibiting that of laying an export duty, manifested that they did not regard them as equivalent. Nor does the common sense of mankind. An export duty fastens upon, and incorporates itself with, the article on which it is laid. The article cannot escape from it—it pursues and follows it, wherever the article goes; and if, in the foreign market, the supply is above or just equal to the demand, the amount of the export duty will be a clear deduction to the exporter from the price of the article. But an import duty on a foreign article leaves the exporter of the domestic article free, 1st, to import specie; 2dly, goods which are free from the protecting duty; or, 3dly, such goods as, being chargeable with the protecting duty, he can sell at home, and throw the duty on the consumer.

But, it is confidently argued that the import duty falls upon the grower of cotton; and the case has been put in debate, and again and again in conversation, of the South Carolina planter, who exports 100 bales of cotton to Liverpool, exchanges them for 100 bales of merchandize, and, when he brings them home, being compelled to leave, at the custom house, forty bales in the form of duties. The argument is founded on the assumption that a duty of forty per cent. amounts to a subtraction of forty from

the 100 bales of merchandize. The first objection to it is, that it supposes a case of barter, which never occurs. If it be replied, that it nevertheless occurs in the operations of commerce, the answer would be that, since the export of Carolina cotton is chiefly made by New-York or foreign merchants, the loss stated, if it really accrued, would fall upon them, and not upon the planter. But, to test the correctness of the hypothetical case, let us suppose that the duty, instead of forty per cent., should be 150, which is asserted to be the duty in some cases. Then, the planter would not only lose the whole hundred bales of merchandize, which he had gotten for his hundred bales of cotton, but he would have to purchase, with other means, an additional fifty bales, in order to enable him to pay the duties accruing on the proceeds of the cotton. Another answer is, that if the *producer* of cotton in America, exchanged against English fabrics, pays the duty, the *producer* of those fabrics also pays it, and then it is twice paid. Such must be the consequence, unless the principle is true on one side of the Atlantic, and false on the other. The true answer is, that the exporter of an article, if he invests its proceeds in a foreign market, takes care to make the investment in such merchandize as, when brought home, he can sell with a fair profit; and, consequently, the consumer would pay the original cost, and charges and profit.

3. The next objection to the American system is, that it subjects South Carolina to the payment of an undue proportion of the public revenue. The basis of this objection is the assumption, shown to have been erroneous, that the producer of the exports from this country pays the duty on its imports, instead of the consumer of those imports. The amount which South Carolina really contributes to the public revenue, no more than that of any other State, can be precisely ascertained. It depends upon her consumption of articles paying duties, and we may make an approximation sufficient for all practical purposes. The cotton planters of the valley of the Mississippi with whom I am acquainted, generally expend about one-third of their income in the support of their families and plantations. On this subject I hold in my hands a statement from a friend of mine, of great accuracy, and a member of the Senate. According to this statement, in a crop of ten thousand dollars, the expenses may fluctuate between two thousand eight hundred dollars and three thousand two hundred dollars. Of this sum, about one-fourth, from seven to eight hundred dollars, may be laid out in articles paying the protecting duty; the residue is disbursed for provisions, mules, horses, oxen, wages of overseer, &c. Estimating the exports of South Carolina at eight millions, one-third is two millions six hundred and sixty-six thousand six hundred and sixty-six dollars; of which, one fourth will be six hundred and sixty-six thousand six hundred and sixty-six and two-thirds dollars. Now supposing the protecting duty to be fifty per cent., and that it all enters into the price of the article, the amount



paid by South Carolina would only be three hundred and thirty-three thousand three hundred and thirty-three and one-third dollars. But the total revenue of the United States may be stated at twenty-five millions, of which the proportion of South Carolina, whatever standard, whether of wealth or population, be adopted, would be about one million. Of course, on this view of the subject, she actually pays only about one-third of her fair and legitimate share. I repeat, that I have no personal knowledge of the habits of actual expenditure in South Carolina; they may be greater than I have stated, in respect to other parts of the cotton country; but if they are, that fact does not arise from any defect in the system of public policy.

4. An abandonment of the American system, it is urged, would lead to an addition to our exports of one hundred and fifty millions of dollars. The amount of one hundred and fifty millions of cotton, in the raw state, would produce four hundred and fifty millions in the manufactured state, supposing no greater measure of value to be communicated, in the manufactured form, than that which our industry imparts. Now, sir, where would markets be found for this vast addition to the supply? Not in the United States, certainly, nor in any other quarter of the globe, England having already every where pressed her cotton manufactures to the utmost point of repletion. We must look out for new worlds; seek for new and unknown races of mortals to consume this immense increase of cotton fabrics.

[Gen. Hayne said that he did not mean that the increase of one hundred and fifty millions to the amount of our exports would be of cotton alone, but of other articles.]

What *other articles*? Agricultural produce—bread stuffs, beef and pork? &c. *Where* shall we find markets for them? *Whither* shall we go? To *what* country whose ports are not hermetically sealed against their admission? Break down the home market, and you are without resource. Destroy all other interests in the country, for the imaginary purpose of advancing the cotton planting interest, and you inflict a positive injury, without the smallest practical benefit to the cotton planter. Could Charleston, or the whole south, when all other markets are prostrated, or shut against the reception of the surplus of our farmers, receive that surplus? Would they buy more than they might want for their own consumption? Could they find markets which other parts of the Union could not? Would gentlemen *force* the freemen of all north of James river, east and west, like the miserable slave, on the Sabbath day, to repair to Charleston, with a turkey under his arm, or a pack upon his back, and beg the clerk of some English or Scotch merchant, living in his gorgeous palace, or rolling in his splendid coach in the streets, to exchange his "*truck*" for a bit of flannel to cover his naked wife and children! No! I am sure that I do no more than justice to their hearts, when I believe that they would reject, what I believe to be the inevitable effects of their policy.

5. But it is contended, in the last place, that the south cannot, from physical, and other causes, engage in the manufacturing arts. I deny the premises, and I deny the conclusion. I deny the fact of inability, and, if it existed, I deny the conclusion that we must, therefore, break down our manufactures, and nourish those of foreign countries. The south possesses, in an extraordinary degree, two of the most important elements of manufacturing industry—water power and labor. The former gives to our whole country a most decided advantage over Great Britain. But a single experiment, stated by the gentleman from South Carolina, in which a faithless slave put the torch to a manufacturing establishment, has discouraged similar enterprizes. We have, in Kentucky, the same description of population, and we employ them, and almost exclusively employ them, in many of our hemp manufactories. A neighbor of mine, one of our most opulent and respectable citizens, has had one, two, if not three, manufactories burnt by incendiaries; but he persevered, and his perseverance has been rewarded with wealth. We found that it was less expensive to keep night watches, than to pay premiums for insurance, and we employed them.

Let it be supposed, however, that the south cannot manufacture; must those parts of the Union which can, be therefore prevented? Must we support those of foreign countries? I am sure that injustice would be done to the generous and patriotic nature of South Carolina, if it were believed that she envied or repined at the success of other portions of the Union in branches of industry to which she might happen not to be adapted.—Throughout her whole career she has been liberal, national, high minded.

The friends of the American system have been reminded by the honorable gentleman from Maryland, (Gen. Smith) that they are the majority, and he has admonished them to exercise their power in moderation. The majority ought never to trample upon the feelings, or violate the just rights of the minority. They ought never to triumph over the fallen, nor to make any but a temperate and equitable use of their power. But these counsels come with an ill grace from the gentleman from Maryland. He, too, is a member of a majority—a political majority. And how has the administration of that majority exercised their power in this country? Recall to your recollection the fourth of March, 1829, when the lank, lean famished forms, from fen and forest, and the four quarters of the Union, gathered together in the halls of patronage; or stealing, by evening's twilight, into the apartments of the president's mansion, cried out, with ghastly faces, and in sepulchral tones: "Give us bread! Give us treasury pap! Give us our reward!" England's bard was mistaken; ghosts will sometimes come, called or uncalled. Go to the families who were driven from the employments on which they were dependent for subsistence, in consequence of their ex-

ercise of the dearest right of freemen. Go to mothers, whilst hugging to their bosoms their starving children. Go to fathers, who, after being disqualified by long public service, for any other business, were stripped of their humble places, and then sought, by the minions of authority, to be stripped of all that was left them—their good names—and ask, what mercy was shown to them! As for myself, born in the midst of the revolution, the first air that I ever breathed on my native soil of Virginia, having been that of liberty and independence, I never expected justice, nor desired mercy at their hands; and scorn the wrath and defy the oppression of power.

I regret, Mr. President, that one topic has, I think, unnecessarily been introduced into this debate. I allude to the charge brought against the manufacturing system, as favoring the growth of aristocracy. If it were true, would gentlemen prefer supporting foreign accumulations of wealth, by that description of industry, rather than in their own country? But is it correct? The joint stock companies of the north, as I understand them, are nothing more than associations, sometimes of hundreds, by means of which the small earnings of many are brought into a common stock, and the associates, obtaining corporate privileges, are enabled to prosecute, under one superintending head, their business to better advantage. Nothing can be more essentially democratic or better devised to counterpoise the influence of individual wealth. In Kentucky, almost every manufactory known to me, is in the hands of enterprising and self-made men, who have acquired whatever wealth they possess by patient and diligent labor. Comparisons are odious, and, but in defence, would not be made by me. But is there more tendency to aristocracy, in a manufactory, supporting hundreds of freemen, or in a cotton plantation, with its not less numerous slaves, sustaining perhaps only two white families—that of the master and the overseer?

I pass, with pleasure, from this disagreeable topic, to two general propositions which cover the entire ground of debate. The first is that under the operation of the American system, the objects which it protects and fosters are brought to the consumer at cheaper prices than they commanded prior to its introduction, or than they would command if it did not exist. If that be true, ought not the country to be contented and satisfied with the system, unless the second proposition, which I mean presently also to consider, is unfounded? And that is, that the tendency of the system is to sustain, and that it has upheld, the prices of all our agricultural and other produce, including cotton.

And is the fact not indisputable, that all essential objects of consumption, affected by the tariff, are cheaper and better, since the act of 1824, than they were for several years prior to that law? I appeal, for its truth, to common observation and to all practical men. I appeal to the farmer of the country, whether he does not purchase on better terms his iron, salt, brown sugar,

cotton goods, and woollens, for his laboring people? And I ask the cotton planter if he has not been better and more cheaply supplied with his cotton bagging? In regard to this latter article, the gentleman from South Carolina was mistaken in supposing that I complained that, under the existing duty, the Kentucky manufacturer could not compete with the Scotch. The Kentuckian furnishes a more substantial and a cheaper article, and at a more uniform and regular price. But it was the frauds, the violations of law, of which I did complain; not smuggling, in the common sense of that practice, which has something bold, daring, and enterprising in it, but mean, barefaced cheating by fraudulent invoices and false denomination.

I plant myself upon this fact, of cheapness and superiority, as upon impregnable ground. Gentlemen may tax their ingenuity and produce a thousand speculative solutions of the fact, but the fact itself will remain undisturbed. Let us look into some particulars. The total consumption of bar iron, in the United States, is supposed to be about 146,000 tons, of which, 112,866 tons are made within the country, and the residue imported. The number of men employed in the manufacture is estimated at 29,254, and the total number of persons subsisted by it, at 146,273. The measure of protection extended to this necessary article, was never fully adequate until the passage of the act of 1828; and what has been the consequence? The annual increase of quantity, since that period, has been in a ratio of near twenty-five per cent., and the wholesale price of bar iron in the northern cities, was, in 1828, \$105 per ton, in 1829, \$100, in 1830, \$90, and in 1831, from \$85 to \$75—constantly diminishing. We import very little English iron, and that which we do, is very inferior, and only adapted to a few purposes. In instituting a comparison between that inferior article and our superior iron, subjects entirely different are compared. They are made by different processes. The English cannot make iron of equal quality to ours, at a less price than we do. They have three classes, best-best, and best, and ordinary. It is the latter which is imported. Of the whole amount imported, there is only about 4,000 tons of foreign iron that pays the high duty; the residue paying only a duty of about thirty per cent., estimated on the prices of the importation of 1829. Our iron ore is superior to that of Great Britain, yielding often from sixty to eighty per cent., whilst theirs produces only about twenty-five. This fact is so well known, that I have heard of recent exportations of iron ore to England.

It has been alledged, that bar iron, being a raw material, ought to be admitted free, or with low duties, for the sake of the manufacturers themselves. But I take this to be the true principle, that, if our country is producing a raw material of prime necessity, and with reasonable protection, can produce it in sufficient quantity to supply our wants, that raw material ought to be protected, although it may be proper to protect the article

also out of which it is manufactured. The tailor will ask protection for himself, but wishes it denied to the grower of wool and the manufacturer of broadcloth. The cotton planter enjoys protection for the raw material, but does not desire it to be extended to the cotton manufacturer. The ship-builder will ask protection for navigation, but does not wish it extended to the essential articles which enter into the construction of his ship. Each, in his proper vocation, solicits protection, but would have it denied to all other interests which are supposed to come into collision with his. Now the duty of the statesman is, to elevate himself above these petty conflicts; calmly to survey all the various interests, and deliberately to proportion the measure of protection to each, according to its nature and to the general wants of society. It is quite possible that, in the degree of protection which has been afforded to the various workers in iron, there may be some error committed, although I have lately read an argument of much ability, proving that no injustice has really been done to them. If there be, it ought to be remedied.

The next article to which I would call the attention of the senate, is that of cotton fabrics. The success of our manufacture of coarse cottons is generally admitted. It is demonstrated by the fact that they meet the cotton fabrics of other countries, in foreign markets, and maintain a successful competition with them. There has been a gradual increase of the exports of this article, which is sent to Mexico and the South American republics, to the Mediterranean, and even to Asia. The remarkable fact was lately communicated to me, that the same individual who, twenty-five years ago, was engaged in the importation of cotton cloth from Asia, for American consumption, is now engaged in the exportation of coarse American cottons to Asia, for Asiatic consumption! And my honorable friend from Massachusetts, now in my eye, (Mr. Silsbee), informed me that, on his departure from home, among the last orders which he gave, one was for the exportation of coarse cottons to Sumatra, in the vicinity of Calcutta! I hold in my hand a statement, derived from the most authentic source, showing that the identical description of cotton cloth, which sold, in 1817, at twenty-nine cents per yard, was sold in 1819, at twenty-one cents, in 1821, at nineteen and a half cents, in 1823, at seventeen cents, in 1825, at fourteen and a half cents, in 1827, at thirteen cents, in 1829 at nine cents, in 1830, at nine and a half cents, and in 1831, at from ten and a half to eleven. Such is the wonderful effect of protection, competition, and improvement in skill, combined! The year 1829 was one of some suffering to this branch of industry, probably owing to the principle of competition being pushed too far; hence we observe a small rise in the article of the next two years. The introduction of calico printing into the United States, constitutes an important era in our manufacturing industry. It commenced about the year 1825, and has since made such astonishing advances, that the whole quantity now annu-

ally printed is but little short of forty millions of yards—about two-thirds of our whole consumption. It is a beautiful manufacture, combining great mechanical skill with scientific discoveries in chemistry. The engraved cylinders for making the impression require much taste, and put in requisition the genius of the fine arts of design and engraving. Are the fine graceful forms of our fair countrywomen less lovely when enveloped in the chintses and calicoes produced by native industry, than when clothed in the tinsel of foreign drapery?

Gentlemen are, no doubt, surprised at these facts. They should not underrate the energies, the enterprise, and the skill, of our fellow-citizens. I have no doubt they are every way competent to accomplish whatever can be effected by any other people, if encouraged and protected by the fostering care of our own government. Will gentlemen believe the fact, which I am authorised now to state, that the United States, at this time, manufacture one-half the quantity of cotton which Great Britain did in 1816! We possess three great advantages: 1st. The raw material. 2d. Water power instead of that of steam, generally used in England. And 3d. The cheaper labor of females. In England, males spin with the mule and weave; in this country women and girls spin with the throstle and superintend the power loom. And can there be any employment more appropriate? Who has not been delighted with contemplating the clock-work regularity of a large cotton manufactory? I have often visited them, at Cincinnati and other places, and always with increased admiration. The women, separated from the other sex, work in apartments, large, airy, well warmed, and spacious. Neatly dressed, with ruddy complexions, and happy countenances, they watch the work before them, mend the broken threads, and replace the exhausted balls or broaches. At stated hours they are called to their meals, and go and return with light and cheerful step. At night they separate, and repair to their respective houses, under the care of a mother, guardian or friend. "Six days shalt thou labor and do all that thou hast to do, but the seventh day is the Sabbath of the Lord thy God." Accordingly, we behold them, on that sacred day, assembled together in His temples, and in devotional attitudes and with pious countenances, offering their prayers to Heaven for all its blessings, of which it is not the least that a system of policy has been adopted by their country, which admits of their obtaining a comfortable subsistence. Manufactures have brought into profitable employment a vast amount of female labor, which, without them, would be lost to the country.

In respect to woollens, every gentleman's own observation and experience will enable him to judge of the great reduction of price which has taken place in most of these articles, since the tariff of 1824. It would have been still greater, but for the high duty on the raw material, imposed for the particular benefit of

the farming interest. But, without going into particular details, I shall limit myself to inviting the attention of the senate to a single article of general and necessary use. The protection given to flannels in 1828 was fully adequate. It has enabled the American manufacturer to obtain complete possession of the American market; and now, let us look at the effect. I have before me a statement from a highly respectable mercantile house, showing the price of four descriptions of flannel, during six years. The average price of them, in 1826, was thirty-eight and three-quarter cents; in 1827, thirty-eight; in 1828, (the year of the tariff,) forty-six; in 1829, thirty-six; in 1830, (notwithstanding the advance in the price of the wool,) thirty-two; and in 1831, thirty-two and one-quarter. These facts require no comments. I have before me another statement of a practical and respectable man, well versed in the flannel manufacture in America and England, demonstrating that the cost of manufacture is precisely the same in both countries; and that, although a yard of flannel which would sell in England at 15 cents, would command here twenty-two, the difference of seven cents is the exact difference between the duties in the two countries, which are paid on the six ounces of wool contained in a yard of flannel.

Brown sugar, during ten years, from 1792 to 1802, with a duty of one and a half cents per pound, averaged fourteen cents per pound. The same article, during ten years, from 1820 to 1830, with a duty of three cents, has averaged only eight cents per pound. Nails, with a duty of five cents per pound, are selling at six cents. Window glass, eight by ten, prior to the tariff of 1824, sold at twelve or thirteen dollars per hundred feet; it now sells for three dollars seventy-five cents.

The gentleman from South Carolina, sensible of the incontestable fact of the very great reduction in the prices of the necessities of life, protected by the American system, has felt the full force of it, and has presented various explanations of the causes to which he ascribes it. The first is the diminished production of the precious metals, in consequence of the distressed state of the countries in which they are extracted, and the consequent increase of their value relative to that of the commodities for which they are exchanged. But, if this be the true cause of the reduction of price, its operation ought to have been general, on all objects, and of course upon cotton among the rest. And, in point of fact, the diminished price of that staple is not greater than the diminution of the value of other staples of our agriculture. Flour, which commanded, some years ago, ten or twelve dollars per barrel, is now sold for five. The fall of tobacco has been still more. The kite foot of Maryland, which sold at from sixteen to twenty dollars per hundred, now produces only four or five. That of Virginia has sustained an equal decline. Beef, pork, every article, almost, produced by the farmer, has decreased in value. Ought not South Carolina then to submit quietly to a state of things, which is general, and proceeds from an un-



controlable cause? Ought she to ascribe to the "accursed" tariff what results from the calamities of civil and foreign war, raging in many countries?

But, sir, I do not subscribe to this doctrine implicitly. I do not believe that the diminished production of the precious metals, if that be the fact, satisfactorily accounts for the fall in prices: For I think that the augmentation of the currency of the world, by means of banks, public stocks and other facilities arising out of exchange and credit, has more than supplied any deficiency in the amount of the precious metals.

It is further urged that the restoration of peace in Europe, after the battle of Waterloo, and the consequent return to peaceful pursuits of large masses of its population, by greatly increasing the aggregate amount of effective labor, had a tendency to lower prices; and undoubtedly such ought to have been its natural tendency. The same cause, however, must also have operated to reduce the price of our agricultural produce, for which there was no longer the same demand in peace as in war—and it did so operate. But its influence on the price of manufactured articles, between the general peace of Europe in 1815, and the adoption of our tariff in 1824, was less sensibly felt, because, perhaps, a much larger portion of the labor, liberated by the disbandment of armies, was absorbed by manufactures than by agriculture. It is also contended that the invention and improvement of labor saving machinery have tended to lessen the prices of manufactured objects of consumption; and undoubtedly this cause has had some effect. Ought not America to contribute her quota of this cause, and has she not, by her skill and extraordinary adaptation to the arts, in truth, largely contributed to it?

This brings me to consider what I apprehend to have been the most efficient of all the causes in the reduction of the prices of manufactured articles—and that is, COMPETITION. By competition, the total amount of the supply is increased, and by increase of the supply, a competition in the sale ensues, and this enables the consumer to buy at lower rates. Of all human powers operating on the affairs of mankind, none is greater than that of competition. It is action and re-action. It operates between individuals in the same nation, and between different nations. It resembles the meeting of the mountain torrent, grooving, by its precipitous motion, its own channel, and ocean's tide. Unopposed, it sweeps every thing before it; but, counterpoised, the waters become calm, safe and regular. It is like the segments of a circle or an arch; taken separately, each is nothing; but, in their combination, they produce efficiency, symmetry, and perfection. By the American system this vast power has been excited in America, and brought into being to act in co-operation or collision with European industry. Europe acts within itself, and with America; and America acts within itself, and with Europe. The consequence is, the reduction of prices in both hemispheres. Nor is it fair to argue, from the reduction of prices in

Europe, to her own presumed skill and labor, exclusively. We affect her prices, and she affects ours. This must always be the case, at least in reference to any articles as to which there is not a total non-intercourse; and if our industry, by diminishing the demand for her supplies, should produce a diminution in the price of those supplies, it would be very unfair to ascribe that reduction to her ingenuity, instead of placing it to the credit of our own skill and *excited* industry.

Practical men understand very well this state of the case, whether they do or do not comprehend the causes which produce it. I have in my possession a letter from a respectable merchant, well known to me, in which he says, after complaining of the operation of the tariff of 1828, on the articles to which it applies, some of which he had imported, and that, his purchases having been made in England, before the passage of that tariff was known, it produced such an effect upon the English market, that the articles could not be re-sold without loss, he adds: "for it *really* appears that, when *additional* duties are laid upon an article, it then becomes *lower* instead of *higher*." This would not probably happen, where the supply of the foreign article did not exceed the home demand, unless, upon the supposition of the increased duty having *excited* or *stimulated* the measure of the home production.

The great law of *price* is determined by supply and demand. Whatever affects either, affects the price. If the supply is increased, the demand remaining the same, the price declines; if the demand is increased, the supply remaining the same, the price advances; if both supply and demand are undiminished, the price is stationary, and the price is influenced exactly in proportion to the degree of disturbance to the demand or supply. It is therefore a great error to suppose that an existing or new duty *necessarily* becomes a component element, to its exact amount, of price. If the proportions of demand and supply are varied by the duty, either in augmenting the supply, or diminishing the demand, or vice versa, price is affected, to the extent of that variation. But the duty never becomes an integral part of the price, except in the instances where the demand and the supply remain, after the duty is imposed, precisely what they were before, or the demand is increased, and the supply remains stationary.

Competition, therefore, wherever existing, whether at home or abroad, is the parent cause of cheapness. If a high duty excites production at home, and the quantity of the domestic article exceeds the amount which had been previously imported, the price will fall. This accounts for an extraordinary fact stated by a senator from Missouri. Three cents were laid as a duty upon a pound of lead, by the act of 1828. The price at Galena, and the other lead mines, afterwards fell to one and a half cents per pound. Now it is obvious that the duty did not, in this case, enter into the price: for it was twice the amount of the price. What produced the fall? It was *stimulated* production at home, exci-

ted by the temptation of the exclusive possession of the home market. This state of things could not last. Men would not continue an unprofitable pursuit; some abandoned the business, or the total quantity produced was diminished, and living prices have been the consequence. But, break down the domestic supply, place us again in a state of dependence on the foreign source, and can it be doubted that we should ultimately have to supply ourselves at dearer rates? It is not fair to credit the foreign market with the depression of prices produced there by the influence of our competition. Let the competition be withdrawn, and their prices would instantly rise. On this subject, great mistakes are committed. I have seen some most erroneous reasoning in a late report of Mr. Lee, of the free trade convention, in regard to the article of sugar. He calculates the total amount of brown sugar produced in the world, and then states that what is made in Louisiana is not more than two and a half per cent. of that total. Although his data may be questioned, let us assume their truth, and what might be the result? Price being determined by the proportions of supply and demand, it is evident that when the supply *exceeds* the demand, the price will fall. And the fall is not always regulated by the amount of that excess. If the market at a given price, required five or fifty millions of hogsheads of sugar, a surplus of only a few hundred might materially influence the price, and diffuse itself throughout the whole mass. Add, therefore, the eighty or one hundred thousand hogsheads of Louisiana sugar to the entire mass produced in other parts of the world, and it cannot be doubted that a material reduction of the price of the article, throughout Europe and America, would take place. The Louisiana sugar substituting foreign sugar, in the home market, to the amount of its annual produce, would force an equal amount of foreign sugar into other markets, which being glutted, the price would necessarily decline, and this decline of price would press portions of the foreign sugar into competition, in the United States, with Louisiana sugar, the price of which would also be brought down. The fact has been in exact conformity with this theory. But now let us suppose the Louisiana sugar to be entirely withdrawn from the general consumption—what then would happen? A new demand would be created in America for foreign sugar to the extent of the eighty or one hundred thousand hogsheads made in Louisiana; a less amount, by that quantity, would be sent to the European markets, and the price would consequently every where rise. It is not, therefore, those who, by keeping on duties, keep down prices, that tax the people, but those who, by repealing duties, would raise prices, that really impose burthens upon the people.

But it is argued that, if, by the skill, experience, and perfection which we have acquired, in certain branches of manufacture, they can be made as cheap as similar articles abroad, and enter fairly into competition with them, why not repeal the

duties as to those articles? And why should we? Assuming the truth of the supposition the foreign article would not be introduced in the regular course of trade, but would remain excluded by the possession of the home market, which the domestic article had obtained. The repeal, therefore, would have no legitimate effect. But might not the foreign article be imported in vast quantities, to glut our markets, break down our establishments, and ultimately, to enable the foreigner to monopolize the supply of our consumption? America is the greatest foreign market for European manufactures. It is that to which European attention is constantly directed. If a great house becomes bankrupt there, its store houses are emptied, and the goods are shipped to America, where, in consequence of our auctions, and our custom-house credits, the greatest facilities are afforded in the sale of them. Combinations among manufacturers might take place, or even the operations of foreign governments might be directed to the destruction of our establishments. A repeal, therefore of one protecting duty, from some one or all of these causes, would be followed by flooding the country with the foreign fabric, surcharging the market, reducing the price, and a complete prostration of our manufactories; after which the foreigner would leisurely look about to indemnify himself in the increased prices which he would be enabled to command by his monopoly of the supply of our consumption. What American citizen, after the government had displayed this vacillating policy, would be again tempted to place the smallest confidence in the public faith, and adventure once more in this branch of industry?

Gentlemen have allowed to the manufacturing portions of the community no peace; they have been constantly threatened with the overthrow of the American system. From the year 1820, if not from 1816, down to this time, they have been held in a condition of constant alarm and insecurity. Nothing is more prejudicial to the great interests of a nation than unsettled and varying policy. Although every appeal to the national legislature has been responded to in conformity with the wishes and sentiments of the great majority of the people, measures of protection have only been carried by such small majorities, as to excite hopes, on the one hand and fears on the other. Let the country breathe, let its vast resources be developed, let its energies be fully put forth, let it have tranquillity, and, my word for it, the degree of perfection in the arts which it will exhibit, will be greater than that which has been presented, astonishing as our progress has been. Although some branches of our manufactures might, and, in foreign markets, now do, fearlessly contend with similar foreign fabrics, there are many others, yet in their infancy, struggling with the difficulties which encompass them. We should look at the whole system, and recollect that time, when we contemplate the great movements of a nation, is very different from the short period which is allotted for the du-

ration of individual life. The honorable gentleman from South Carolina well and eloquently said, in 1824, "No great interest of any country ever yet grew up in a day; no new branch of industry can become firmly and profitably established, but in a long course of years; every thing, indeed, great or good, is matured by slow degrees: that which attains a speedy maturity is of small value, and is destined to a brief existence. It is the order of Providence, that powers gradually developed, shall alone attain permanency and perfection. Thus must it be with our national institutions and national character itself."

I feel most sensibly, Mr. President, how much I have trespassed upon the senate. My apology is a deep and deliberate conviction, that the great cause under debate involves the prosperity and the destiny of the Union. But the best requital I can make, for the friendly indulgence which has been extended to me by the senate, and for which I shall ever retain sentiments of lasting gratitude, is to proceed, with as little delay as practicable, to the conclusion of a discourse which has not been more tedious to the senate than exhausting to me. I have now to consider the remaining of the two propositions which I have already announced. That is:

2dly. That under the operation of the American system, the products of our agriculture command a higher price than they would do without it, by the creation of a home market; and by the augmentation of wealth produced by manufacturing industry, which enlarges our powers of consumption both of domestic and foreign articles. The importance of the home market is among the established maxims which are universally recognised by all writers and all men. However some may differ as to the relative advantages of the foreign and the home market none deny to the latter great value and high consideration. It is nearer to us; beyond the control of foreign legislation; and undisturbed by those vicissitudes to which all inter-national intercourse is more or less exposed. The most stupid are sensible of the benefit of a residence in the vicinity of a large manufactory, or of a market town, of a good road, or of a navigable stream, which connects their farms with some great capital. If the pursuits of all men were perfectly the same, although they would be in possession of the greatest abundance of the particular produce of their industry, they might, at the same time, be in extreme want of other necessary articles of human subsistence. The uniformity of the general occupation would preclude all exchanges, all commerce. It is only in the diversity of the vocations of the members of a community that the means can be found for those salutary exchanges which conduce to the general prosperity. And the greater that diversity the more extensive and the more animating is the circle of exchange. Even if foreign markets were freely and widely open to the reception of our agricultural produce, from its bulky nature, and the distance of the interior, and the dangers of the ocean, large portions of it could never

profitably reach the foreign market. But let us quit this field of theory, clear as it is, and look at the practical operation of the system of protection, beginning with the most valuable staple of our agriculture.

In considering this staple, the first circumstance that excites our surprise is the rapidity with which the amount of it has annually increased. Does not this fact, however, demonstrate that the cultivation of it could not have been so very unprofitable! If the business were ruinous, would more and more have annually engaged in it? The quantity in 1816 was eighty-one millions of pounds; in 1826 two hundred and four millions; and in 1830, near three hundred millions! The ground of greatest surprise is, that it has been able to sustain even its present price with such an enormous augmentation of quantity. It could not have been done but for the combined operation of three causes, by which the consumption of cotton fabrics has been greatly extended, in consequence of their reduced prices: 1st. competition; 2d, the improvement of labor-saving machinery; and 3dly, the low price of the raw material. The crop of 1819, amounting to eighty-eight millions of pounds, produced twenty-one millions of dollars; the crop of 1823, when the amount was swelled to one hundred and seventy-four millions, (almost double that of 1819,) produced a less sum by more than half a million of dollars; and the crop of 1824, amounting to thirty millions of pounds less than that of the preceding year, produced a million and a half of dollars more.

If there be any foundation for the established law of price, supply, and demand, ought not the fact of this great increase of the supply, to account, satisfactorily, for the alledged low price of cotton? Is it necessary to look beyond that single fact to the tariff—to the diminished price of the mines furnishing the precious metals, or to any other cause, for the solution? This subject is well understood in the south, and although I cannot approve the practice which has been introduced of quoting authority, and still less the authority of newspapers, for favorite theories, I must ask permission of the senate to read an article from a southern newspaper. [Here General Hayne requested Mr. Clay to give the name of the authority, that it might appear whether it was not some other than a southern paper expressing southern sentiments. Mr. Clay stated that it was from the Charleston City Gazette, one, he believed, of the oldest and most respectable prints in that city, although he was not sure what might be its sentiments on the question which at present divides the people of South Carolina.] The article comprises a full explanation of the low price of cotton, and assigns to it its true cause—increased production.

Let us suppose that the home demand for cotton, which has been created by the American system, were to cease, and that the 200,000\* bales, which the home market now absorbs, were

\* Mr. Clay stated that he assumed the quantity which was generally computed.

thrown into the glutted markets of foreign countries—would not the effect inevitably be to produce a further and great reduction in the price of the article? If there be any truth in the facts and principles which I have before stated and endeavored to illustrate, it cannot be doubted that the existence of American manufactures has tended to increase the demand, and extend the consumption of the raw material; and that, but for this increased demand, the price of the article would have fallen, possibly one-half lower than it now is. The error of the opposite argument is, in assuming one thing, which, being denied, the whole fails; that is, it assumes that the *whole* labor of the United States would be profitably employed without manufactures.—Now, the truth is, that the system *excites* and *creates* labor, and this labor creates wealth, and this new wealth communicates additional ability to consume, which acts on all the objects contributing to human comfort and enjoyment. The amount of cotton imported into the two ports of Boston and Providence alone during the last year, (and it was imported exclusively for the home manufacture,) was 109,517 bales.

On passing from that article to others of our agricultural productions, we shall find not less gratifying facts. The total quantity of flour imported into Boston, during the same year, was 284,504 barrels, and 3,955 half barrels; of which, there were from Virginia, Georgetown and Alexandria, 114,222 barrels; of Indian corn, 681,131 bushels; of oats, 239,809 bushels; of rye, about 50,000 bushels; and of shorts, 33,489 bushels. Into the port of Providence, 71,369 barrels of flour; 216,662 bushels of Indian corn, and 7,772 bushels of rye. And there were discharged at the port of Philadelphia 420,353 bushels of Indian corn; 201,878 bushels of wheat, and 110,557 bushels of rye and barley. There were slaughtered in Boston, during the same year, 1831, (the only northern city from which I have obtained returns,) 33,922 beef cattle; 15,400 stores; 84,453 sheep, and 26,871 swine. It is confidently believed that there is not a less quantity of southern flour consumed at the north than 800,000 barrels—a greater amount, probably, than is shipped to all the foreign markets of the world together.

What would be the condition of the farming country of the United States—of all that portion which lies north, east and west of James river, including a large part of North Carolina, if a home market did not exist for this immense amount of agricultural produce? Without that market, where could it be sold?

but he believed it much greater, and subsequent information justifies his belief. It appears from the report of the cotton committee appointed by the New-York Convention, that *partial* returns show a consumption of upwards of 250,000 bales; that the cotton manufacture employs nearly 40,000 females, and about 5,000 children; that the total dependents on it are 131,489; that the annual wages paid are \$12,155,723; the annual value of its products \$32,306,076; the capital \$44,914,984; the number of mills, 795; of spindles, 1,246,503; and of cloth made, 260,461,990 yards. This statement does not comprehend the western manufactures.



In foreign markets? If their restrictive laws did not exist, their capacity would not enable them to purchase and consume this vast addition to their present supplies, which must be thrown in, or thrown away, but for the home market. But their laws exclude us from their markets. I shall content myself by calling the attention of the Senate to Great Britain only. The duties in the ports of the United Kingdom, on bread stuffs, are prohibitory, except in times of dearth. On rice, the duty is fifteen shillings sterling per hundred weight, being more than one hundred per cent. On manufactured tobacco, it is nine shillings sterling per pound, or about two thousand per cent. On leaf tobacco three shillings per pound, or one thousand two hundred per cent. On lumber, and some other articles, they are from 400 to 1,500 per cent. more than on similar articles imported from British colonies. In the British West Indies, the duty on beef, pork, hams and bacon is twelve shillings sterling per hundred, more than one hundred per cent. on the first cost of beef and pork in the western States. And yet Great Britain is the power in whose behalf we are called upon to legislate so that *we* may enable *her* to purchase our cotton! Great Britain, that thinks only of herself in her own legislation! When have we experienced justice, much less favor, at her hands? When did she shape her legislation in reference to the interests of any foreign power? She is a great, opulent and powerful nation; but haughty, arrogant, and supercilious—not more separated from the rest of the world by the sea that girds her island, than she is separated in feeling, sympathy, or friendly consideration of their welfare. Gentlemen, in supposing it impracticable that we should successfully compete with her in manufactures, do injustice to the skill and enterprize of their own country. Gallant, as Great Britain undoubtedly is, we have gloriously contended with her, man to man, gun to gun, ship to ship, fleet to fleet, and army to army. And I have no doubt we are destined to achieve equal success in the more useful, if not nobler contest for superiority in the arts of civil life.

I could extend and dwell on the long list of articles—the hemp, iron, lead, coal, and other items, for which a demand is created in the home market by the operation of the American system; but I should exhaust the patience of the Senate. *Where, where* should we find a market for all these articles, if it did not exist at home? What would be the condition of the largest portion of our people, and of the territory, if this home market were annihilated? How could they be supplied with objects of prime necessity? What would not be the certain and inevitable decline in the price of all these articles, but for the home market? And allow me, Mr. President, to say, that, of all the agricultural parts of the United States which are benefitted by the operation of this system, none are equally so with those which border the Chesapeake bay, the lower parts of North Carolina, Virginia,

and the two shores of Maryland. Their facilities of transportation, and proximity to the north, give them decided advantages.

But, if all this reasoning were totally fallacious—if the price of manufactured articles were really higher, under the American system, than without it, I should still argue that high or low prices were themselves relative—relative to the ability to pay them. It is in vain to tempt, to tantalize us with the lower prices of European fabrics than our own, if we have nothing wherewith to purchase them. If, by the home exchanges, we can be supplied with necessary, even if they are dearer and worse, articles of American production than the foreign, it is better than not to be supplied at all. And how would the large portion of our country which I have described be supplied, but for the home exchanges? A poor people, destitute of wealth or of exchangeable commodities, has nothing to purchase foreign fabrics. To them they are equally beyond their reach, whether their cost be a dollar or a guinea. It is in this view of the matter that Great Britain, by her vast wealth—her *excited* and *protected* industry—is enabled to bear a burthen of taxation which, when compared to that of other nations, appears enormous; but which, when her immense riches are compared to theirs, is light and trivial. The gentleman from South Carolina has drawn a lively and flattering picture of our coasts, bays, rivers and harbors; and he argues that these proclaimed the design of Providence, that we should be a commercial people. I agree with him. We differ only as to the means. He would cherish the foreign, and neglect the internal trade. I would foster both. What is navigation without ships, or ships without cargoes? By penetrating the bosoms of our mountains, and extracting from them their precious treasures; by cultivating the earth, and *securing* a home market for its rich and abundant products; by employing the water power with which we are blessed; by stimulating and protecting our native industry, in all its forms; we shall but nourish and promote the prosperity of commerce, foreign and domestic.

I have hitherto considered the question in reference only to a state of peace; but a season of war ought not to be entirely overlooked. We have enjoyed near twenty years of peace; but who can tell when the storm of war shall again break forth? Have we forgotten, so soon, the privations to which, not merely our brave soldiers and our gallant tars were subjected, but the whole community, during the last war, for the want of absolute necessities? To what an enormous price they rose! And how inadequate the supply was, at any price! The statesman, who justly elevates his views, will look behind, as well as forward, and at the existing state of things; and he will graduate the policy, which he recommends, to all the probable exigencies which may arise in the republic. Taking this comprehensive range, it would be easy to show that the higher prices of peace, if prices were higher in peace, were more than compensated by

the lower prices of war, during which supplies of all essential articles are indispensable to its vigorous, effectual and glorious prosecution. I conclude this part of the argument with the hope that my humble exertions have not been altogether unsuccessful in showing—

1. That the policy which we have been considering ought to continue to be regarded as the genuine American system.

2. That the free trade system, which is proposed as its substitute, ought really to be considered as the British colonial system.

3. That the American system is beneficial to all parts of the Union, and absolutely necessary to much the larger portion.

4. That the price of the great staple of cotton, and of all our chief productions of agriculture, has been sustained and upheld, and a decline averted by the protective system.

5. That, if the foreign demand for cotton has been at all diminished by the operation of that system, the diminution has been more than compensated in the additional demand created at home.

6. That the constant tendency of the system, by creating competition among ourselves, and between American and European industry, reciprocally acting upon each other, is to reduce prices of manufactured objects.

7. That, in point of fact, objects within the scope of the policy of protection have greatly fallen in price.

8. That if, in a season of peace, these benefits are experienced, in a season of war, when the foreign supply might be cut off, they would be much more extensively felt.

9. And, finally, that the substitution of the British colonial system for the American system, without benefiting any section of the Union, by subjecting us to a foreign legislation, regulated by foreign interests, would lead to the prostration of our manufactures, general impoverishment, and ultimate ruin.

And now, Mr. President, I have to make a few observations on a delicate subject, which I approach with all the respect that is due to its serious and grave nature. They have not, indeed, been rendered necessary by the speech of the gentleman from South Carolina, whose forbearance to notice the topic was commendable, as his argument, throughout, was characterized by an ability and dignity worthy of him, and of the Senate. The gentleman made one declaration, which might possibly be misinterpreted, and I submit to him whether an explanation of it be not proper. The declaration, as reported in his printed speech, is, "the instinct of self interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation on our part than a simple consent to receive them."— [Here Gen. Hayne rose and remarked, that the passages which

immediately preceded and followed the paragraph cited, he thought, plainly indicated his meaning, which related to evasions of the system, by illicit introduction of goods, which they were not disposed to countenance in South Carolina.] I am happy to hear this explanation. But, sir, it is impossible to conceal from our view the facts that there is a great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the Legislature itself has declared its purpose of resorting to counteracting measures—a suspension of which has only been submitted to, for the purpose of allowing Congress time to *retrace* its steps. With respect to this Union, Mr. President, the truth cannot be too generally proclaimed, nor too strongly inculcated, that it is necessary to the *whole* and to all the *parts*—necessary to those parts, indeed, in different degrees, but vitally necessary to *each*—and that threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle, which lies at the foundation of all free governments, is, that the majority must govern; from which there is or can be no appeal but to the sword. That majority ought to govern wisely, equitably, moderately and constitutionally, but govern *it must*, subject only to that terrible appeal. If ever one, or several States, being a minority, can, by menacing a dissolution of the Union, succeed in forcing an abandonment of great measures deemed essential to the interests and prosperity of the whole, the Union, from that moment, is practically gone. It may linger on, in form and name, but its vital spirit has fled forever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina—the land of Marion, Sumpter and Pickens—of Rutledge, Laurens, the Pinckneys and Lowndes—of living and present names, which I would mention if they were not living or present—to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat may be painful and mortifying to their gallantry and pride, but it is to retreat to the Union, to safety, and to those brethren with whom, or with whose ancestors, they, or their ancestors, have won, on fields of glory, imperishable renown. To advance, is to rush on certain and inevitable disgrace and destruction.

We have been told of deserted castles, of uninhabited halls, and of mansions, once the seats of opulence and hospitality, now abandoned and mouldering in ruins. I never had the honor of being in South Carolina; but I have heard and read of the stories of its chivalry, and of its generous and open-hearted liberality. I have heard, too, of the struggles for power between the lower and upper country. The same causes which existed in Virginia, with which I have been acquainted, I presume, have had their influence in Carolina. In whose hands now are the

once proud seats of Westover Curl, Maycox, Shirley,\* and others, on James river, and in lower Virginia? Under the operation of laws, abolishing the principle of primogeniture, and providing the equitable rule of an equal distribution of estates among those in equal degree of consanguinity, they have passed into other and stranger hands. Some of the descendants of illustrious families have gone to the far west, whilst others, lingering behind, have contrasted their present condition with that of their venerated ancestors. They behold themselves excluded from their fathers' houses, now in the hands of those who were once their fathers' overseers, or sinking into decay; their imaginations paint ancient renown, the fading honors of their name, glories gone by; too poor to live, too proud to work, too high-minded and honorable to resort to ignoble means of acquisition, brave, daring, chivalrous, *what* can be the cause of their present unhappy state? The "accursed" tariff presents itself to their excited imaginations, and they blindly rush into the ranks of those who, unfurling the banner of nullification, would place a state upon its sovereignty!

The danger to our Union does not lie on the side of persistence in the American system, but on that of its abandonment. If, as I have supposed and believe, the inhabitants of all north and east of James river, and all west of the mountains, including Louisiana, are deeply interested in the preservation of that system, would they be reconciled to its overthrow? Can it be expected that two-thirds if not three-fourths, of the people of the United States would consent to the destruction of a policy, believed to be indispensably necessary to their prosperity? When, too, the sacrifice is made at the instance of a single interest, which they verily believe will not be promoted by it? In estimating the degree of peril which may be incident to two opposite courses of human policy, the statesman would be short-sighted who should content himself with viewing only the evils, real or imaginary, which belong to that course which is in practical operation. He should lift himself up to the contemplation of those greater and more certain dangers which might inevitably attend the adoption of the alternative course. What would be the condition of this Union, if Pennsylvania and New-York, those mammoth members of our confederacy, were firmly persuaded that their industry was paralysed, and their prosperity blighted, by the enforcement of the British colonial system, under the delusive name of free trade? They are now tranquil and happy, and contented, conscious of their welfare, and feeling a salutary and rapid circulation of the products of home manufactures and home industry throughout all their great arteries. But let that be checked, let them feel that a foreign system is to predominate, and the sources of their subsistence and comfort dried up; let

\* As to Shirley, Mr. Clay acknowledges his mistake, made in the warmth of debate. It is yet the abode of the respectable and hospitable descendants of its former opulent proprietor.

New-England and the west, and the middle states, all feel that they too are the victims of a mistaken policy, and let these vast portions of our country despair of any favorable change, and then indeed, might we tremble for the continuance and safety of this Union!

And need I remind you, sir, that this dereliction of the duty of protecting our domestic industry, and abandonment of it to the fate of foreign legislation, would be directly at war with leading considerations which prompted the adoption of the present constitution? The states, respectively, surrendered to the general government the whole power of laying imposts on foreign goods. They stripped themselves of all power to protect their own manufactures, by the most efficacious means of encouragement—the imposition of duties on rival foreign fabrics. Did they create that great trust? Did they voluntarily subject themselves to this self-restriction, that the power should remain in the federal government inactive, unexecuted, and lifeless? Mr. Madison, at the commencement of the government, told you otherwise. In discussing at that early period this very subject, he declared that a failure to exercise this power would be a “*fraud*” upon the northern states, to which may now be added the middle and western states.

[Governor Miller asked to what expression of Mr. Madison’s opinion Mr. Clay referred; and Mr. C. replied, his opinion, expressed in the house of representatives in 1789, as reported, in Lloyd’s Congressional debates.]

Gentlemen are greatly deceived as to the hold which this system has in the affections of the people of the United States. They represent that it is the policy of New-England, and that she is most benefitted by it. If there be any part of this Union which has been most steady, most unanimous, and most determined in its support, it is Pennsylvania. Why is not that powerful state attacked? Why pass her over, and aim the blow at New-England? New-England came, reluctantly, into the policy. In 1824, a majority of her delegation was opposed to it. From the largest state of New-England there was but a solitary vote in favor of the bill. That enterprising people can readily accommodate their industry to any policy, provided it be *settled*. They supposed this was fixed, and they submitted to the decrees of government. And the progress of public opinion has kept pace with the developments of the benefits of the system. Now, all New-England, at least in this house, (with the exception of one small, still voice) is in favor of the system. In 1824 all Maryland was against it; now the majority is for it. Then, Louisiana, with one exception, was opposed to it; now, without any exception, she is in favor of it. The march of public sentiment is to the south. Virginia will be the next convert; and, in less than seven years, if there be no obstacles from political causes, or prejudices industriously instilled, the majority of eastern Virginia will be, as the majority of western Virginia now is, in favor of the American

system. North Carolina will follow later, but not less certainly. Eastern Tennessee is now in favor of the system. And, finally, its doctrines will pervade the whole Union, and the wonder will be, that they ever should have been opposed.

I have now to proceed to notice some objections which have been urged against the resolution under consideration. With respect to the amendment which the gentleman from South Carolina has offered, as he has intimated his purpose to modify it, I shall forbear, for the present, to comment upon it. It is contended that the resolution proposes the repeal of duties on luxuries, leaving those on necessities to remain, and that it will, therefore, relieve the rich, without lessening the burthens of the poor. And the gentleman from South Carolina has carefully selected, for ludicrous effect, a number of the unprotected articles, cosmetics, perfumes, oranges, &c. I must say, that this exhibition of the gentleman is not in keeping with the candor which he has generally displayed; that he knows very well that the duties upon these articles are trifling, and that it is of little consequence whether they are repealed or retained. Both systems, the American and the foreign, comprehend some articles which may be deemed luxuries. The senate knows that the unprotected articles which yield the principal part of the revenue, with which this measure would dispense, are coffee, tea, spices, wines and silks. Of all these articles, wines and silks alone can be pronounced to be luxuries; and as to wines, we have already ratified a treaty, not yet promulgated, by which the duties on them are to be considerably reduced. If the universality of the use of objects of consumption determines their classification, coffee, tea and spices, in the present condition of civilized society, may be considered necessities. Even if they were luxuries, why should not the poor, by cheapening their prices, if that can be effected, be allowed to use them? Why should not a poor man be allowed to tie a silk handkerchief on his neck, occasionally regale himself with a glass of cheap French wine, or present his wife or daughter with a silk gown, to be worn on Sabbath or gala days? I am quite sure that I do not misconstrue the feelings of the gentleman's heart, in supposing that he would be happy to see the poor, as well as the rich, moderately indulging themselves in these innocent gratifications. For one, I am delighted to see the condition of the poor attracting the consideration of the opponents of the tariff. It is for the great body of the people, and especially for the poor, that I have ever supported the American system. It affords them profitable employment, and supplies the means of comfortable subsistence. It *secures* to them, certainly, necessities of life, manufactured at home, and places within their reach, and enables them to acquire a reasonable share of foreign luxuries; whilst the system of gentlemen *promises* them necessities made in foreign countries, and which are beyond their power, and *denies* to them luxuries, which they would possess no means to purchase.



The constant complaint of South Carolina against the tariff, is, that it checks importations, and disables foreign powers from purchasing the agricultural productions of the United States. The effect of the resolution will be to increase importations, not so much, it is true, from Great Britain, as from other powers, but not the less acceptable on that account. It is a misfortune that so large a portion of our foreign commerce concentrates in one nation; it subjects us too much to the legislation and the policy of that nation, and exposes us to the influence of her numerous agents, factors and merchants. And it is not among the smallest recommendations of the measure before the senate, that its tendency will be to expand our commerce with France, our great revolutionary ally—the land of our Lafayette. There is much greater probability also, of an enlargement of the present demand for cotton, in France, than in Great Britain. France engaged later in the manufacture of cotton, and has made, therefore, less progress. She has, moreover, no colonies producing the article in abundance, whose industry she might be tempted to encourage.

The honorable gentleman from Maryland, (Gen. Smith,) by his reply to a speech which, on the opening of the subject of this resolution, I had occasion to make, has rendered it necessary that I should take some notice of his observations. The honorable gentleman stated that he had been *accused* of partiality to the manufacturing interest. Never was there a more groundless and malicious charge preferred against a calumniated man.— Since this question has been agitated in the public councils, although I have often heard from him professions of attachment to this branch of industry, I have never known any member a more uniform, determined and uncompromising opponent of them, than the honorable senator has invariably been. And if, hereafter, the calumny should be repeated, of his friendship to the American system, I shall be ready to furnish to him, in the most solemn manner, my testimony to his innocence. The honorable gentleman supposed that I had advanced the idea that the *permanent* revenue of this country should be fixed at eighteen millions of dollars. Certainly I had no intention to announce such an opinion, nor do my expressions, fairly interpreted, imply it. I stated, on the occasion referred to, that, estimating the ordinary revenue of the country at twenty-five millions, and the amount of the duties on the unprotected articles proposed to be repealed by the resolution, at seven millions, the latter sum taken from the former would leave eighteen. But I did not intimate any belief that the revenue of the country ought, for the future, to be permanently fixed at that or any other precise sum. I stated that, after having effected so great a reduction, we might pause, cautiously survey the whole ground, and deliberately determine upon other measures of reduction, some of which I indicated. And I now say, preserve the protective system in full vigor; give us the proceeds of the public domain for internal im-

provements, or if you please, partly for that object, and partly for the removal of the free blacks, with their own consent, from the United States; and for one, I have no objection to the reduction of the public revenue to fifteen, to thirteen, or even to nine millions of dollars.

In regard to the scheme of the secretary of the treasury for paying off the whole of the remaining public debt, by the 4th day of March, 1833, including the three per cent., and for that purpose, selling the bank stock, I had remarked that, with the exception of the three per cent., there was not more than about four millions of dollars of the debt due and payable within this year, that, to meet this, the secretary had stated in his annual report, that the treasury would have, from the receipts of this year, fourteen millions of dollars, applicable to the principal of the debt; that I did not perceive any urgency for paying off the three per cent. by the precise day suggested; and that there was no necessity, according to the plans of the treasury, assuming them to be expedient and proper, to postpone the repeal of the duties on unprotected articles. The gentleman from Maryland imputed to me ignorance of the act of the 24th April, 1830, according to which, in his opinion the secretary was obliged to purchase the three per cent. On what ground the senator supposed I was ignorant of that act he has not stated. Although when it passed I was at Ashland, I assure him that I was not there altogether uninformed of what was passing in the world. I regularly received the Register of my excellent friend (Mr. Niles,) published in Baltimore, the National Intelligencer, and other papers. There are two errors to which gentlemen are sometimes liable; one is to magnify the amount of knowledge which they possess themselves, and the second is to depreciate that which others have acquired. And will the gentleman from Maryland excuse me for thinking that no man is more prone to commit both errors than himself? I will not say that he is ignorant of the true meaning of the act of 1830, but I certainly place a different construction upon it from what he does. It does not oblige the secretary of the treasury, or rather the commissioners of the sinking fund, to apply the surplus of any year to the purchase of the three per cent. stock particularly, but leaves them at liberty "to apply such surplus to the purchase of any portion of the public debt, at such rates as, in their opinion may be advantageous to the United States." This vests a discretionary authority, to be exercised under official responsibility. And if any secretary of the the treasury, when he had the option of purchasing a portion of the debt, bearing a higher rate of interest at par or about par, were to execute the act by purchasing the three per cents., at its present price, he would merit impeachment. Undoubtedly a state of fact may exist, such as there being no public debt remaining to be paid, but the three per cent. stock, with a surplus in the treasury, idle and unproductive, in which it might be expedient to apply that surplus to the reim-

bursement of the three per cents. But whilst the interest of money is at a greater rate than three per cent., it would not, I think, be wise to produce an accumulation of public treasure for such a purpose. The postponement of any reduction of the amount of the revenue, at this session, must however give rise to that very accumulation; and it is, therefore, that I cannot perceive the utility of the postponement.

We are told by the gentleman from Maryland, that offers have been made to the secretary of the treasury to exchange three per cents., at their market price of 96 per cent., for the bank stock of the government at its market price, which is about 126, and he thinks it would be wise to accept them. If the charter of the bank is renewed that stock will be probably worth much more than its present price; if not renewed, much less. Would it be fair in government, whilst the question is pending and undecided, to make such an exchange? The difference in value between a stock bearing three per cent., and one bearing seven per cent., must be really much greater than the difference between 96 and 126 per cent. Supposing them to be perpetual annuities, the one would be worth more than twice the value of the other. But my objection to the treasury plan is, that it is not necessary to execute it—to continue these duties as the secretary proposes. The secretary has a debt of twenty-four millions to pay; he has from the accruing receipts of this year, fourteen millions, and we are now told by the senator from Maryland, that this sum of fourteen millions is exclusive of any of the duties accruing this year. He proposes to raise eight millions by sale of the bank stock, and to anticipate, from the revenue receivable next year two millions more. These three items, then, of fourteen millions, eight millions, and two millions, make up the sum required, of twenty-four millions, without the aid of the duties to which the resolution relates.

The gentleman from Maryland insists that the general government has been liberal toward the west in its appropriations of public lands for internal improvements; and, as to fortifications, he contends that the expenditures near the mouth of the Mississippi, are for its especial benefit. The appropriations of land to the states of Ohio, Indiana, Illinois, and Alabama, have been liberal; but it is not to be overlooked, that the general government is itself the greatest proprietor of land, and that a tendency of the improvements, which these appropriations were to effect is to increase the value of the unsold public domain. The erection of the fortifications for the defence of Louisiana was highly proper; but the gentleman might as well place to the account of the west, the disbursements for the fortifications intended to defend Baltimore, Philadelphia, and New York, to all which capitals western produce is sent, and in the security of all of which, the western people feel a lively interest. They do not object to expenditures for the army, for the navy, for fortifications, or for any other defensive or commercial object on the

Atlantic, but they do think that their condition ought also to receive friendly attention from the general government. With respect to the state of Kentucky not one cent of money, or one acre of land, has been applied to any object of internal improvement within her limits. The subscription to the stock of the canal at Louisville was for an object in which many states were interested. The senator from Maryland complains that he has been unable to obtain any aid for the rail road which the enterprise of Baltimore has projected, and, in part, executed. That was a great work, the conception of which was bold, and highly honorable, and it deserves national encouragement. But how has the committee of roads and canals, at this session been constituted? The senator from Maryland possessed a brief authority to organize it, and, if I am not misinformed, a majority of the members composing it, appointed by him, are opposed both to the constitutionality of the power and the expediency of exercising it.

And now, sir, I would address a few words to the friends of the American system in the senate. The revenue must, ought to be reduced. The country will not, after, by the payment of the public debt, ten or twelve millions of dollars become unnecessary, bear such an annual surplus. Its distribution would form a subject of perpetual contention. Some of the opponents of the system understand the stratagem by which to attack it, and are shaping their course accordingly. It is to crush the system by the accumulation of revenue, and by the effort to persuade the people that they are unnecessarily taxed, whilst those would really tax them who would break up the native sources of supply, and render them dependent upon the foreign. But the revenue ought to be reduced, so as to accommodate it to the fact of the payment of the public debt. And the alternative is or may be, to preserve the protecting system, and repeal the duties on the unprotected articles, or to *preserve* the duties on *unprotected* articles, and endanger if not destroy the system. Let us then adopt the measure before us, which will benefit all classes; the farmer, the professional man, the merchant, the manufacturer, the mechanic; and the cotton planter more than all. A few months ago, there was no diversity of opinion as to the expediency of this measure. All, then, seemed to unite in the selection of these objects for a repeal of duties which were not produced within the country. Such a repeal did not touch our domestic industry, violated no principle, offended no prejudice.

Can we not all, whatever may be our favorite theories, cordially unite on this neutral ground? When that is occupied, let us look beyond it, and see if any thing can be done, in the field of protection, to modify, to improve it, or to satisfy those who are opposed to the system. Our southern brethren believe that it is injurious to them, and ask its repeal. We believe that its abandonment will be prejudicial to them, and ruinous to every other section of the Union. However strong their convictions may be,

they are not stronger than ours. Between the points of the preservation of the system and its absolute repeal, there is no principle of union. If it can be shown to operate immoderately on any quarter, if the measure of protection to any article can be demonstrated to be undue and inordinate, it would be the duty of Congress to interpose and apply a remedy. And none will co-operate more heartily than I shall, in the performance of that duty. It is quite probable that beneficial modifications of the system may be made without impairing its efficacy. But to make it fulfil the purposes of its institution, the measure of protection ought to be adequate. If it be not, all interests will be injuriously affected. The manufacturer, crippled in his exertions, will produce less perfect and dearer fabrics, and the consumer will feel the consequence. This is the spirit and these are the principles only, on which, it seems to me, that a settlement of this great question can be made, satisfactorily to all parts of our Union.

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## ON THE UNITED STATES BANK VETO.

*Speech on the President's Veto of the Bank Bill, July 12, 1832.*

Mr. Clay said he had some observations to submit on this question, which he would not trespass on the Senate in offering, but that it had some command of leisure, in consequence of the conference which had been agreed upon in respect to the tariff.

A bill to recharter the bank has recently passed Congress, after much deliberation. In this body, we know that there are members enough who entertain no constitutional scruples, to make, with the vote by which the bill was passed, a majority of two-thirds. In the House of Representatives also, it is believed, there is a like majority in favor of the bill. Notwithstanding this state of things, the President has rejected the bill, and transmitted to the Senate an elaborate message, communicating at large his objections. The constitution requires that we should reconsider the bill, and that the question of its passage, the President's objections notwithstanding, shall be taken by ayes and noes. Respect to him, as well as the injunctions of the constitution, require that we should deliberately examine his reasons, and reconsider the question.

The veto is an extraordinary power, which, though tolerated by the constitution, was not expected, by the convention, to be used in ordinary cases. It was designed for instances of precipitate legislation, in unguarded moments. Thus restricted, and it had been thus restricted by all former Presidents, it might not be mischievous. During Mr. Madison's administration of

eight years, there had occurred but two or three cases of its exercise. During the last administration, I do not now recollect that it was once. In a period little upwards of three years, the present Chief Magistrate has employed the veto four times. We now hear quite frequently, in the progress of measures through Congress, the statement that the President will veto them, urged as an objection to their passage.

The veto is hardly reconcileable with the genius of representative government. It is totally irreconcilable with it, if it is to be frequently employed in respect to the expediency of measures, as well as their constitutionality. It is a feature of our government borrowed from a prerogative of the British king. And it is remarkable that in England it has grown obsolete, not having been used for upwards of a century. At the commencement of the French revolution, in discussing the principles of their constitution, in national convention, the veto held a conspicuous figure. The gay, laughing population of Paris bestowed on the King the appellation of *Monsieur Veto*, and on the queen, that of *Madame Veto*. The convention finally decreed, that if a measure rejected by the king should obtain the sanction of two concurring legislatures, it should be a law, notwithstanding the veto. In the constitution of Kentucky, and perhaps in some other of the State constitutions, it is provided that if, after the rejection of a bill by the Governor, it shall be passed by a majority of *all* the members elected to *both* houses, it shall become a law, notwithstanding the Governor's objections. As a co-ordinate branch of the government, the Chief Magistrate has great weight. If, after a respectful consideration of his objections urged against a bill, a majority of all the members elected to the Legislature shall still pass it, notwithstanding his official influence and the force of his reasons, ought it not to become a law? Ought the opinion of one man to overrule that of a legislative body twice deliberately expressed?

It cannot be imagined that the convention contemplated the application of the veto to a question which has been so long, so often, and so thoroughly scrutinized, as that of the bank of the United States, by every department of the government, in almost every stage of its existence, and by the people, and by the State Legislatures. Of all the controverted questions which have sprung up under our government, not one has been so fully investigated as that of its power to establish a bank of the United States. More than seventeen years ago, in January, 1815, Mr. Madison then said, in a message to the Senate of the United States: "*Waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive and judicial branches of the government, accompanied by indications, in different modes, of a concurrence of the general will of the nation.*" Mr. Madison, himself op-

posed to the first bank of the United States, yielded his own convictions to those of the nation, and all the departments of the government thus often expressed. Subsequent to this true but strong statement of the case, the present bank of the United States was established, and numerous other acts, of all the departments of government, manifesting their settled sense of the power, have been added to those which existed prior to the date of Mr. Madison's message.

No question has been more generally discussed, within the last two years, by the people at large, and in State Legislatures, than that of the bank. And this consideration of it has been prompted by the President himself. In his first message to Congress, (in December, 1829,) he brought the subject to the view of that body and the nation, and expressly declared, that it could not, for the interest of all concerned, be "too soon" settled. In each of his subsequent annual messages, in 1830 and 1831, he again invited the attention of Congress to the subject. Thus, after an interval of two years, and after the intervention of the election of a new Congress, the President deliberately renews his recommendation to consider the question of the renewal of the charter of the bank of the United States. And yet his friends now declare the agitation of the question to be premature! It was not premature in 1829 to present the question, but it is premature in 1832 to consider and decide it!

After the President had directed public attention to this question, it became not only a topic of popular conversation, but was discussed in the press, and employed as a theme in popular elections. I was myself interrogated, on more occasions than one, to make a public expression of my sentiments; and a friend of mine in Kentucky, a candidate for the State Legislature, told me near two years ago, that he was surprised, in an obscure part of his county, (the hills of Benson,) where there was but little occasion for banks, to find himself questioned on the stump as to the recharter of the bank of the United States. It seemed as if a sort of general order had gone out, from head-quarters, to the partizans of the administration every where, to agitate and make the most of the question. They have done so: and their condition now reminds me of the fable invented by Dr. Franklin of the eagle and the cat, to demonstrate that Æsop had not exhausted invention, in the construction of his memorable fables. The eagle, you know, Mr. President, pounced from his lofty flight in the air upon a cat, taking it to be a pig. Having borne off his prize, he quickly felt most painfully the paws of the cat thrust deeply into his sides and body. Whilst flying, he held a parley with the supposed pig, and proposed to let go his hold, if the other would let him alone. No, says puss, you brought me from yonder earth below, and I will hold fast to you until you carry me back—a condition to which the eagle readily assented.

The friends of the President, who have been for near three



years agitating this question, now turn round upon their opponents, who have supposed the President quite serious and in earnest in presenting it for public consideration, and charge them with prematurely agitating it. And that for electioneering purposes! The other side understands perfectly the policy of preferring an unjust charge in order to avoid a well founded accusation.

If there be an electioneering motive in the matter, who have been actuated by it? Those who have taken the President at his word, and deliberated on a measure which he has repeatedly recommended to their consideration; or those who have resorted to all sorts of means to elude the question? By alternately coaxing and threatening the bank; by an extraordinary investigation into the administration of the bank; and by every species of postponement and procrastination, during the progress of the bill.

Notwithstanding all these dilatory expedients, a majority of Congress, prompted by the will and the best interests of the nation, passed the bill. And I shall now proceed, with great respect and deference, to examine some of the objections to its becoming a law, contained in the President's message, avoiding, as much as I can, a repetition of what gentlemen have said who preceded me.

The President thinks that the precedents, drawn from the proceedings of Congress, as to the constitutional power to establish a bank, are neutralized, by there being two for and two against the authority. He supposes that one Congress in 1811, and another in 1815, decided against the power. Let us examine both of these cases. The House of Representatives in 1811, passed the bill to re-charter the bank, and, consequently affirmed the power. The senate during the same year were divided, 17 and 17, and the Vice-President gave the casting vote. Of the 17 who voted against the bank, we know from the declaration of the senator from Maryland, (General Smith,) now present, that he entertained no doubt whatever of the constitutional power of Congress to establish a bank, and that he voted on totally distinct ground. Taking away his vote and adding it to the 17 who voted for the bank, the number would have stood 18 for, and 16 against the power. But we know further, that Mr. Gaillard, Mr. Anderson and Mr. Robinson, made a part of that 16; and that in 1815, all three of them voted for the bank. Take those three votes from the 16, and add them to the 18, and the vote of 1811, as to the question of constitutional power, would have been 21 and 13. And of these thirteen there might have been others still who were not governed in their votes by any doubts of the power.

In regard to the Congress of 1815, so far from their having entertained any scruples in respect to the power to establish a bank, they actually passed a bank bill, and thereby affirmed the power. It is true that, by the casting vote of the speaker of the

House of Representatives, (Mr. Cheves,) they rejected another bank bill, not on grounds of want of power, but upon considerations of expediency in the particular structure of that bank.

Both the adverse precedents therefore, relied upon in the message, operate directly against the argument which they were brought forward to maintain. Congress, by various other acts, in relation to the bank of the United States, has again and again sanctioned the power. And I believe it may be truly affirmed that from the commencement of the government to this day, there has not been a Congress opposed to the bank of the United States upon the distinct ground of a want of power to establish it.

And here, Mr. President, I must request the indulgence of the senate, whilst I express a few words in relation to myself.

I voted, in 1811, against the old bank of the United States, and I delivered on the occasion, a speech, in which, among other reasons, I assigned that of its being unconstitutional. My speech has been read to the senate, during the progress of this bill, but the reading of it excited no other regret than that it was read in such a wretched, bungling, mangling manner.\* During a long public life, (I mention the fact, not as claiming any merit for it,) the only great question in which I have ever changed my opinion, is that of the bank of the United States. If the researches of the senator had carried him a little further, he would, by turning over a few more leaves of the same book from which he read my speech, have found that which I made in 1816, in support of the present bank. By the reasons assigned in it for the change of my opinion, I am ready to abide in the judgment of the present generation and of posterity. In 1816, being speaker of the House of Representatives, it was perfectly in my power to have said nothing and done nothing, and thus have concealed the change of opinion which my mind had undergone. But I did not choose to remain silent and escape responsibility. I chose publicly to avow my actual conversion. The war, and the fatal experience of its disastrous events, had changed me. Mr. Madison, Governor Pleasants, and almost all the public men around me, my political friends, had changed their opinions from the same causes.

The power to establish a bank is deduced from that clause of the constitution which confers on Congress all powers necessary and proper to carry into effect the enumerated powers. In 1811, I believed a bank of the United States not necessary, and that a safe reliance might be placed on the local banks, in the administration of the fiscal affairs of the government. The war taught us many lessons, and among others demonstrated the necessity of a bank of the United States, to the successful operations of the government. I will not trouble the senate with a

\* It is understood to have been read by Mr. Hill.

perusal of my speech in 1816, but ask its permission to read a few extracts :

“But how stood the case in 1816, when he was called upon again to examine the powers of the general government to incorporate a national bank? A total change of circumstances was presented—events of the utmost magnitude had intervened.

“A general suspension of specie payments had taken place, and this had led to a train of circumstances of the most alarming nature. He beheld, dispersed over the immense extent of the United States, about three hundred banking institutions, enjoying, in different degrees, the confidence of the public, shaken as to them all, under no direct control of the general government, and subject to no actual responsibility to the state authorities. These institutions were emitting the actual currency of the United States—a currency consisting of paper, on which they neither paid interest nor principal, whilst it was exchanged for the paper of the community, on which both were paid. We saw these institutions in fact, exercising what had been considered, at all times, and in all countries, one of the highest attributes of sovereignty—the regulation of the current medium of the country. They were no longer competent to assist the treasury, in either of the great operations of collection, deposit, or distribution of the public revenues. In fact, the paper which they emitted, and which the treasury, from the force of events, found itself constrained to receive, was constantly obstructing the operations of that department; for it would accumulate where it was not wanted, and could not be used where it was wanted, for the purposes of government, without a ruinous and arbitrary brokerage. Every man who paid to or received from the government, paid or received as much less than he ought to have done, as was the difference between the medium in which the payment was effected and specie. Taxes were no longer uniform. In New England, where specie payments had not been suspended, the people were called upon to pay larger contributions than where they were suspended. In Kentucky as much more was paid by the people, in their taxes, than was paid, for example, in the state of Ohio, as Kentucky paper was worth more than Ohio paper. \* \* \*

“Considering, then, that the state of the currency was such that no thinking man could contemplate it without the most serious alarm; that it threatened general distress, if it did not ultimately lead to convulsion and subversion of the government—it appeared to him to be the duty of Congress to apply a remedy, if a remedy could be devised. A national bank, with other auxiliary measures was proposed as that remedy. Mr. Clay said he determined to examine the question with as little prejudice as possible, arising from his former opinion; he knew that the safest course to him, if he pursued a cold calculating prudence, was to adhere to that opinion right or wrong. He was perfectly aware that if he changed, or seemed to change it,

he should expose himself to some censure ; but, looking at the subject with the light shed upon it, by events happening since the commencement of the war, he could no longer doubt. \*

\* \* He preferred to the suggestions of the pride of consistency, the evident interests of the community, and determined to throw himself upon their justice and candor."

The interest which foreigners hold in the existing bank of the United States, is dwelt upon in the message as a serious objection to the re-charter. But this interest is the result of the assignable nature of the stock ; and if the objection be well founded, it applies to government stock, to the stock in local banks, in canal and other companies, created for internal improvements, and every species of money or moveables in which foreigners may acquire an interest. The assignable character of the stock is a quality conferred, not for the benefit of foreigners, but for that of our own citizens. And the fact of its being transferred to them is the effect of the balance of trade being against us—an evil, if it be one, which the American system will correct. All governments wanting capital resort to foreign nations possessing it in superabundance, to obtain it. Sometimes the resort is even made by one to another belligerent nation. During our revolutionary war we obtained foreign capital, (Dutch and French) to aid us. During the late war American stock was sent to Europe to sell ; and, if I am not misinformed, to Liverpool. The question does not depend upon the place whence the capital is obtained, but the advantageous use of it. The confidence of foreigners in our stocks is a proof of the solidity of our credit. Foreigners have no voice in the administration of this bank ; and if they buy its stock, they are obliged to submit to citizens of the United States to manage it. The senator from Tennessee, (Mr. White,) asks what would have been the condition of this country, if, during the late war, this bank had existed, with such an interest in it as foreigners now hold ? I will tell him. We should have avoided many of the disasters of that war, perhaps those of Detroit and at this place. The government would have possessed ample means for its vigorous prosecution ; and the interest of foreigners—British subjects especially, would have operated upon them, not upon us. Will it not be a serious evil to be obliged to remit in specie to foreigners the eight millions which they now have in this bank, instead of retaining that capital within the country to stimulate its industry and enterprize ?

The President assigns in his message a conspicuous place to the alledged injurious operation of the bank on the interests of the western people. They ought to be much indebted to him for his kindness manifested towards them ; although, I think, they have much reason to deprecate it. The people of all the west owe to this bank about thirty millions, which have been borrowed from it ; and the President thinks that the payments for the interest, and other facilities which they derive from the opera-

tions of this bank, are so onerous as to produce "a drain of their currency, which no country can bear without inconvenience and occasional distress." His remedy is to compel them to pay the whole of the debt which they have contracted in a period short of four years. Now, Mr. President, if they cannot pay the interest without distress, how are they to pay the principal? If they cannot pay a part, how are they to pay the whole? Whether the payment of the interest be or be not a burthen to them, is a question for themselves to decide, respecting which they might be disposed to dispense with the kindness of the President. If instead of borrowing thirty millions from the bank, they had borrowed a like sum from a Girard, John Jacob Astor, or any other banker, what would they think of one who should come to them and say—"gentlemen of the west, it will ruin you to pay the interest on that debt, and therefore I will oblige you to pay the whole of the principal in less than four years." Would they not reply—"we know what we are about; mind your own business; we are satisfied that in ours we can make not only the interest on what we loan, but a fair profit besides."

A great mistake exists about the western operation of the bank. It is not the bank, but the business, the commerce of the west, and the operations of government, that occasions the transfer, annually, of money from the west to the Atlantic states. What is the actual course of things? The business and commerce of the west are carried on with New-Orleans, with the southern and southwestern states, and with the Atlantic cities. We transport our dead or inanimate produce to New-Orleans, and receive in return checks or drafts of the bank of the United States at a premium of a half per cent. We send, by our drovers, our live stock to the south and southwest, and receive similar checks in return. With these drafts or checks our merchants proceed to the Atlantic cities, and purchase domestic or foreign goods for western consumption. The lead and fur trade of Missouri and Illinois is also carried on principally through the agency of the bank of the United States. The government also transfers to places where it is wanted, through that bank, the sums accumulated at the different land offices for purchases of the public lands.

Now all these varied operations must go on—all these remittances must be made, bank of the United States, or no bank.—The bank does not create, but it facilitates them. The bank is a mere vehicle; just as much so as the steamboat is the vehicle which transports our produce to the great mart of New-Orleans, and not the grower of that produce. It is to confound cause and effect, to attribute to the bank the transfer of money from the west to the east. Annihilate the bank to-morrow, and similar transfers of capital, the same description of pecuniary operations, must be continued; not so well, it is true, but performed they must be, ill or well, under any state of circumstances.

The true questions are, how are they now performed, how were they conducted prior to the existence of the bank, how

would they be after it ceased? I can tell you what was our condition before the bank was established; and, as I reason from past to future experience, under analogous circumstances, I can venture to predict what it will probably be without the bank.

Before the establishment of the bank of the United States, the exchange business of the west was carried on by a premium, which was generally paid on all remittances to the east of  $2\frac{1}{2}$  per cent. The aggregate amount of all remittances, throughout the whole circle of the year, was very great, and instead of the sum then paid, we now pay half per cent., or nothing, if notes of the bank of the United States be used. Prior to the bank, we were without the capital of the thirty millions which that institution now supplies, stimulating our industry and invigorating our enterprise. In Kentucky we have no specie paying bank, scarcely any currency other than that of paper of the bank of the United States and its branches.

How is the west to pay this enormous debt of thirty millions of dollars? It is impossible. It cannot be done. General distress, certain, wide-spread, inevitable ruin must be the consequences of an attempt to enforce the payment. Depression in the value of all property, sheriff's sales and sacrifices—bankruptcy, must necessarily ensue; and, with them, relief laws, paper money, a prostration of the courts of justice, evils from which we have just emerged, must again, with all their train of afflictions, revisit our country. But it is argued by the gentleman from Tennessee (Mr. White) that similar predictions were made, without being realized, from the downfall of the old bank of the United States. It is, however, to be recollected, that the old bank did not possess one-third of the capital of the present; that it had but one office west of the mountains, whilst the present has nine; and that it had little or no debt due to it in that quarter, whilst the present bank has thirty millions. The war, too, which shortly followed the downfall of the old bank, and the suspension of specie payments, which soon followed the war, prevented the injury apprehended from the discontinuance of the old bank.

The same gentleman further argues that the day of payment must come; and he asks when, better than now? Is it to be indefinitely postponed; is the charter of the present bank to be perpetual? Why, Mr. President, all things—governments, republics, empires, laws, human life—doubtless are to have an end; but shall we therefore accelerate their termination? The west is now young, wants capital, and its vast resources, needing nourishment, are daily developing. By and by, it will accumulate wealth from its industry and enterprise, and possess its surplus capital. The charter is not made perpetual, because it is wrong to bind posterity perpetually. At the end of the term limited for its renewal, posterity will have the power of determining for itself whether the bank shall then be wound up, or prolonged another term. And that question may be decided, as it now ought to be, by a consideration of the interests of all parts of the

Union, the west among the rest. Sufficient for the day is the evil thereof.

The President tells us that, if the executive had been called upon to furnish the project of a bank, the duty would have been cheerfully performed; and he states that a bank, competent to all the duties which may be required by the government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the states. The President is a co-ordinate branch of the legislative department. As such, bills which have passed both houses of Congress, are presented to him for his approval or rejection. The idea of going to the President for the project of a law, is totally new in the practice, and utterly contrary to the theory of the government. What should we think of the senate calling upon the house, or the house upon the senate, for the *project* of a law?

In France, the king possessed the initiative of all laws, and none could pass without its having been previously presented to one of the chambers by the crown, through the ministers. Does the President wish to introduce the initiative here? Are the powers of recommendation, and that of veto, not sufficient? Must all legislation, in its commencement and in its termination, concentrate in the President? When we shall have reached that state of things, the election and annual sessions of Congress will be an useless charge upon the people, and the whole business of government may be economically conducted by ukases and decrees.

Congress does sometimes receive the suggestions and opinions of the heads of department, as to new laws. And, at the commencement of this session, in his annual report, the Secretary of the Treasury stated his reasons at large, not merely in favor of a bank, but in support of the renewal of the charter of the existing bank. Who could have believed that that responsible officer was communicating to Congress opinions directly adverse to those entertained by the President himself? When before has it happened, that the head of a department recommended the passage of a law which, being accordingly passed and presented to the President, is subjected to his veto? What sort of a bank it is, with a project of which the President would have deigned to furnish Congress, if they had applied to him, he has not stated. In the absence of such statement, we can only conjecture that it is his famous treasury bank, formerly recommended by him, from which the people have recoiled with the instinctive horror excited by the approach of the cholera.

The message states, that "an investigation *unwillingly* conceded, and so *restricted* in time as necessarily to make it *incomplete* and *unsatisfactory*, discloses enough to excite suspicion and alarm." As there is no prospect of the passage of this bill, the President's objections notwithstanding, by a constitutional majority of two-thirds, it can never reach the house of representatives. The members of that house, and especially its distinguish-



ed chairman of the committee of ways and means, who reported the bill, are therefore cut off from all opportunity of defending themselves. Under these circumstances, allow me to ask how the President has ascertained that the investigation was *unwillingly* conceded? I have understood directly the contrary; and that the chairman, already referred to, as well as other members in favor of the renewal of the charter, promptly consented to and voted for the investigation. And we all know that those in support of the renewal could have prevented the investigation, and that they did not. But suspicion and alarm have been excited! **SUSPICION AND ALARM!** Against whom is this suspicion? The house, or the bank, or both?

Mr. President, I protest against the right of any Chief Magistrate to come into either house of Congress, and scrutinize the motives of its members; to examine whether a measure has been passed with promptitude or repugnance; and to pronounce upon the willingness or unwillingness with which it has been adopted or rejected. It is an interference in concerns which partake of a domestic nature. The official and constitutional relations between the President and the two houses of Congress subsist with them as organized bodies. His action is confined to their consummated proceedings, and does not extend to measures in their incipient stages, during their progress through the houses, nor to the motives by which they are actuated.

There are some parts of this message that ought to excite deep alarm; and that especially in which the President announces that each public officer may interpret the constitution as he pleases. His language is: "Each public officer, who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others." \* \* \* "The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and, *on that point, the President is independent of both.*" Now, Mr. President, I conceive with great deference, that the President has mistaken the purport of the oath to support the constitution of the United States. No one swears to support it *as he understands it*, but to support it simply as it is in truth. All men are bound to obey the laws, of which the constitution is the supreme; but must they obey them as they are, or *as they understand them*? If the obligation of obedience is limited and controlled by the measure of information; in other words, if the party is bound to obey the constitution only as he understands it, what would be the consequence? The judge of an inferior court would disobey the mandate of a superior tribunal, because it was not in conformity to the constitution, *as he understands it*; a custom house officer would disobey a circular from the treasury department, because contrary to the constitution, *as he understands it*; an American minister would disregard an instruction from the President, communicated through the department of state, because not agreeable to the constitution, *as he understands it*; and a subordinate

officer in the army or navy would violate the orders of his superior, because they were not in accordance with the constitution, *as he understands it*. We should have nothing settled, nothing stable, nothing fixed. There would be general disorder and confusion throughout every branch of administration, from the highest to the lowest officers—universal nullification. For what is the doctrine of the President but that of South Carolina applied throughout the Union? The President independent both of Congress and the Supreme Court! Only bound to execute the laws of the one and the decisions of the other as far as they conform to the constitution of the United States, *as he understands it*! Then it should be the duty of every President, on his installation into office, to carefully examine all the acts in the statute book, approved by his predecessors, and mark out those which he was resolved not to execute, and to which he meant to apply this new species of veto, because they were repugnant to the constitution, *as he understands it*. And, after the expiration of every term of the Supreme Court, he should send for the record of its decisions, and discriminate between those which he would, and those which he would not, execute, because they were or were not agreeable to the constitution, *as he understands it*.

There is another constitutional doctrine contained in the message, which is entirely new to me. It asserts that “the government of the United States have no consitutional power to purchase lands within the States,” except “for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;” and, even for these objects, only “by the consent of the Legislature of the State in which the same shall be.” Now, sir, I had supposed that the right of Congress to purchase lands in any State was incontestible: and, in point of fact, it probably at this moment owns land in every State of the Union, purchased for taxes, or as a judgment or mortgage creditor. And there are various acts of Congress which regulate the purchase and transfer of such lands. The advisers of the President have confounded the faculty of purchasing lands with the exercise of exclusive jurisdiction, which is restricted by the constitution to the forts and other buildings described.

The message presents some striking instances of discrepancy. 1st. It contests the right to establish one bank, and objects to the bill that it limits and restrains the power of Congress to establish several. 2d. It urges that the bill does not recognize the power of State taxation generally; and complains that facilities are afforded to the exercise of that power, in respect to the stock held by individuals. 3d. It objects that any bonus is taken, and insists that not enough is demanded. And 4th. It complains that foreigners have too much influence, and that stock transferred loses the privilege of representation in the elections of the bank, which, if it were retained, would give them more.

Mr. President, we are about to close one of the longest and most arduous sessions of Congress under the present constitu-

tion; and, when we return among our constituents, what account of the operations of their government shall we be bound to communicate? We shall be compelled to say, that the Supreme Court is paralyzed, and the missionaries retained in prison in contempt of its authority, and in defiance of numerous treaties and laws of the United States; that the executive, through the Secretary of the Treasury, sent to Congress a tariff bill which would have destroyed numerous branches of our domestic industry, and to the final destruction of all; that the veto has been applied to the bank of the United States, our only reliance for a sound and uniform currency; that the Senate has been violently attacked for the exercise of a clear constitutional power; that the House of Representatives has been unnecessarily assailed; and that the President has promulgated a rule of action for those who have taken the oath to support the constitution of the United States, that must, if there be practical conformity to it, introduce general nullification, and end in the absolute subversion of the government.

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## ON THE PUBLIC LANDS.

The subject before the Senate being the bill to appropriate, for a limited time, the proceeds of the public lands of the United States—

Mr. Clay rose and said, that in rising to address the Senate, he owed, in the first place, the expression of his hearty thanks to the majority, by whose vote, just given, he was indulged in occupying the floor on this most important question. He was happy to see that the days when the sedition acts and gag laws were in force, and when screws were applied for the suppression of the freedom of speech and debate, were not yet to return; and that, when the consideration of a great question had been specially assigned to a particular day, it was not allowed to be arrested and thrust aside by any unexpected and unprecedented parliamentary manœuvre. The decision of the majority demonstrated that feelings of liberality and courtesy and kindness still prevailed in the Senate; and that they would be extended even to one of the humblest members of the body; for such, he assured the Senate, he felt himself to be.\*

\* This subject had been set down for this day. It was generally expected, in and out of the Senate, that it would be taken up, and that Mr. Clay would address the Senate. The members were generally in their seats, and the gallery and lobbies crowded. At the customary hour, he moved that the subject pending should be laid on the table, *to take up the land bill*. It was ordered accordingly. At this point of time Mr. Forsyth made a motion, supported by Mr. Tazewell, that the Senate proceed to executive business. The motion was overruled.

It may not be amiss again to allude to the extraordinary reference of the subject of the public lands to the committee of manufactures. I have nothing, (said Mr. Clay,) to do with the motives of honorable Senators who composed the majority by which that reference was ordered. The decorum proper in this hall obliges me to consider their motives to have been pure and patriotic. But still I must be permitted to regard the proceeding as very unusual. The Senate has a standing committee on the public lands, appointed under long established rules. The members of that committee are presumed to be well acquainted with the subject; they have some of them occupied the same station for many years, are well versed in the whole legislation on the public lands, and familiar with every branch of it—and four out of five of them come from the new States. Yet, with a full knowledge of all these circumstances, a reference was ordered by a majority of the Senate to the committee on manufactures—a committee than which there was not another standing committee of the Senate whose prescribed duties were more incongruous with the public domain. It happened, in the constitution of the committee of manufactures, that there was not a solitary Senator from the new States, and but one from any western State. We had earnestly protested against the reference, and insisted upon its impropriety; but we were overruled by the majority, including a majority of Senators from the new States. I will not attempt an expression of the feelings excited in my mind on that occasion. Whatever may have been the intention of honorable Senators, I could not be insensible to the embarrassment in which the committee of manufactures was placed, and especially myself. Although any other member of that committee would have rendered himself, with appropriate researches and proper time, more competent than I was to understand the subject of the public lands, it was known that, from my local position, I alone was supposed to have any particular knowledge of them. Whatever emanated from the committee was likely, therefore, to be ascribed to me. If the committee should propose a measure of great liberality towards the new States, the old States might complain. If the measure should seem to lean towards the old States, the new might be dissatisfied. And, if it inclined to neither class of States, but recommended a plan according to which there would be distributed impartial justice among all the States, it was far from certain that any would be pleased.

Without venturing to attribute to honorable Senators the purpose of producing this personal embarrassment, I felt it, as a necessary consequence of their act, just as much as if it had been in their contemplation. Nevertheless, the committee of manufactures cheerfully entered upon the duty which, against its will, was thus assigned to it by the Senate. And, for the causes already noticed, that of preparing a report and suggesting some measure embracing the whole subject, devolved in the

committee upon me. The general features of our land system were strongly impressed on my memory; but I found it necessary to re-examine some of the treaties, deeds of cession and laws which related to the acquisition and administration of the public lands; and then to think of, and, if possible, strike out some project, which, without inflicting injury upon any of the States, might deal equally and justly with all of them. The report and bill, submitted to the Senate, after having been previously sanctioned by a majority of the committee, were the results of this consideration. The report, with the exception of the principle of distribution which concludes it, obtained the unanimous concurrence of the committee of manufactures.

This report and bill were hardly read in the Senate before they were violently denounced. And they were not considered by the Senate before a proposition was made to refer the report to that very committee of the public lands to which, in the first instance, I contended the subject ought to have been assigned. It was in vain that we remonstrated against such a proceeding, as unprecedented, as implying unmerited censure on the committee of manufactures, and as leading to interminable references; for what more reason could there be to refer the report of the committee of manufactures to the land committee, than would exist for a subsequent reference of the report of this committee, when made, to some third committee, and so on in an endless circle? In spite of all our remonstrances, the same majority, with but little if any variation, which had originally resolved to refer the subject to the committee of manufactures, now determined to commit its bill to the land committee. And this not only without particular examination into the merits of that bill, but without the avowal of any specific amendment which was deemed necessary! The committee of public lands, after the lapse of some days, presented a report, and recommended a reduction of the price of the public lands immediately, to one dollar per acre, and eventually to 50 cents per acre; and the grant to the new states of fifteen per cent. on the nett proceeds of the sales, instead of ten, as proposed by the committee of manufactures, and nothing to the old states.

And now, Mr. President, I desire, at this time, to make a few observations in illustration of the original report; to supply some omissions in its composition; to say something as to the power and rights of the general government over the public domain; to submit a few remarks on the counter report; and to examine the assumptions which it contained, and the principles on which it is founded.

No subject which had presented itself to the present, or perhaps any preceding Congress, was of greater magnitude than that of the public lands. There was another, indeed, which possessed a more exciting and absorbing interest—but the excitement was happily but temporary in its nature. Long after we shall cease to be agitated by the tariff, ages after our manu-

factures shall have acquired a stability and perfection which will enable them successfully to cope with the manufactures of any other country, the public lands will remain a subject of deep and enduring interest. In whatever view we contemplate them, there is no question of such vast importance. As to their extent, there is public land enough to found an empire; stretching across the immense continent, from the Atlantic to the Pacific ocean, from the Gulf of Mexico to the northwestern lakes, the quantity according to official surveys and estimates, amounting to the prodigious sum of one billion and eighty millions of acres! As to the duration of the interest regarded as a source of comfort to our people, and of public income—during the last year, when the greatest quantity was sold that ever in one year, had been previously sold, it amounted to less than three millions of acres, producing three millions and a half of dollars. Assuming that year as affording the standard rate at which the lands will be annually sold, it would require three hundred years to dispose of them. But the sales will probably be accelerated from increased population and other causes. We may safely, however, anticipate that long, if not centuries after the present day, the representatives of our children's children may be deliberating in the halls of Congress, on laws relating to the public lands.

The subject in other points of view, challenged the fullest attention of an American statesman. If there were any one circumstance more than all others which distinguished our happy condition from that of the nations of the old world, it was the possession of this vast national property, and the resources which it afforded to our people and our government. No European nation, (possibly with the exception of Russia,) commanded such an ample resource. With respect to the other republics of this continent, we have no information that any of them have yet adopted a regular system of previous survey and subsequent sale of their wild lands, in convenient tracts, well defined, and adapted to the wants of all. On the contrary, the probability is that they adhere to the ruinous and mad system of old Spain, according to which large unsurveyed districts are granted to favorite individuals, prejudicial to them, who often sink under the incumbrance, and die in poverty, whilst the regular current of emigration is checked and diverted from its legitimate channels.

And if there be in the operations of this government, one which more than any other displays consummate wisdom and statesmanship, it is that system by which the public lands have been so successfully administered. We should pause, solemnly pause, before we subvert it. We should touch it hesitatingly, and with the gentlest hand. The prudent management of the public lands, in the hands of the general government, will be more manifest by contrasting it with that of several of the states, which had the disposal of large bodies of waste lands. Virginia possessed

an ample domain west of the mountains, and in the present state of Kentucky, over and above her munificent cession to the general government. Pressed for pecuniary means, by the revolutionary war, she brought her wild lands, during its progress, into market, receiving payment in paper money. There were no previous surveys of the waste lands—no townships, no sections, no official definition or description of tracts. Each purchaser made his own location, describing the land bought as he thought proper. These locations or descriptions were often vague and uncertain. The consequence was, that the same tract was not unfrequently entered various times by different purchasers, so as to be literally shingled over with conflicting claims. The state perhaps sold in this way, much more land than it was entitled to, but then it received nothing in return that was valuable; whilst the purchasers in consequence of the clashing and interference between their rights, were exposed to tedious, vexatious, and ruinous litigation. Kentucky long and severely suffered from this cause; and is just emerging from the troubles brought upon her by improvident land legislation. Western Virginia has also suffered greatly, though not to the same extent.

The state of Georgia had large bodies of waste lands, which she disposed of in a manner satisfactory no doubt to herself, but astonishing to every one out of that commonwealth. According to her system, waste lands are distributed in lotteries among the people of the state, in conformity with the enactments of the legislature. And when one district of country is disposed of, as there are many who do not draw prizes, the unsuccessful call out for fresh distributions. These are made, from time to time, as lands are acquired from the Indians; and hence one of the causes of the avidity with which the Indian lands are sought. It is manifest that neither the present generation nor posterity can derive much advantage from this mode of alienating public lands. On the contrary, I should think, it cannot fail to engender speculation and a spirit of gambling.

The state of Kentucky, in virtue of a compact with Virginia, acquired a right to a quantity of public lands south of Green river. Neglecting to profit by the unfortunate example of the parent state, she did not order the country to be surveyed previous to its being offered to purchasers. Seduced by some of those wild land projects, of which at all times there have been some afloat, and which hitherto the general government alone has firmly resisted, she was tempted to offer her waste lands to settlers, at different prices, under the name of head-rights or pre-emptions. As the laws, like most legislation upon such subjects, were somewhat loosely worded, the keen eye of the speculator soon discerned the defects, and he took advantage of them. Instances had occurred of masters obtaining certificates of head rights in the name of their slaves, and thus securing the



land, in contravention of the intention of the legislature. Slaves generally have but one name, being called Tom, Jack, Dick, or Harry. To conceal the fraud, the owner would add Black, or some other cognomination, so that the certificate would read Tom Black, Jack Black, &c. The gentleman from Tennessee, (Mr. Grundy,) will remember, some twenty-odd years ago, when we were both members of the Kentucky legislature, that I took occasion to animadvert upon these fraudulent practices, and observed that when the names came to be alphabeted, the truth would be told, whatever might be the language of the record; for the alphabet would read *Black Tom*, *Black Harry*, &c. Kentucky realised more in her treasury than the parent state had done, considering that she had but a remnant of public lands, and she added somewhat to her population. But they were far less available than they would have been under a system of previous survey and regular sale.

These observations in respect to the course of the respectable states referred to, in relation to their public lands, are not prompted by any unkind feelings towards them, but to show the superiority of the land system of the United States.

Under the system of the general government, the wisdom of which, in some respects, is admitted even by the report of the land committee, the country subject to its operation, beyond the Alleghany mountains, has rapidly advanced in population, improvement and prosperity. The example of the state of Ohio was emphatically relied on by the report of the committee of manufactures—its million of people, its canals, and other improvements, its flourishing towns, its highly cultivated fields, all put there within less than forty years. To weaken the force of this example, the land committee deny that the population of that state is principally settled upon public lands derived from the general government. But, Mr. President, with great deference to that committee, I must say that it labors under misapprehension. Three-fourths, if not four-fifths of the population of that state, are settled upon public lands purchased from the United States, and they are the most flourishing parts of the state. For the correctness of this statement I appeal to my friend from Ohio, (Mr. Ewing,) near me. He knows as well as I do, that the rich valleys of the Miami of Ohio, and the Maumee of the Lake, the Scioto and the Muskingum, are principally settled by persons deriving titles to their lands from the United States.

In a national point of view, one of the greatest advantages which these public lands in the west, and this system of selling them, affords, is the resource which they present against pressure and want, in other parts of the Union, from the vocations of society being too closely filled, and too much crowded. They constantly tend to sustain the price of labor, by the opportunity which they offer of the acquisition of fertile land at a moderate

price, and the consequent temptation to emigrate from those parts of the Union where labor may be badly rewarded.

The progress of settlement, and the improvement in the fortunes and condition of individuals, under the operation of this beneficent system, are as simple as they are manifest. Pioneers of a more adventurous character, advancing before the tide of emigration, penetrate into the uninhabited regions of the west. They apply the axe to the forest, which falls before them, or the plough to the prairie, deeply sinking its share in the unbroken wild grasses in which it abounds. They build houses, plant orchards, enclose fields, cultivate the earth, and rear up families around them. Meantime, the tide of emigration flows upon them, their improved farms rise in value, a demand for them takes place, they sell to the new comers, at a great advance, and proceed farther west, with ample means to purchase from government, at reasonable prices, sufficient land for all the members of their families. Another and another tide succeeds, the first pushing on westwardly the previous settlers, who, in their turn, sell out their farms, constantly augmenting in price, until they arrive at a fixed and stationary value. In this way, thousands and tens of thousands are daily improving their circumstances, and bettering their condition. I have often witnessed this gratifying progress. On the same farm you may sometimes behold, standing together, the first rude cabin of round and unhewn logs, and wooden chimneys, the hewed log house, chinked and shingled, with stone or brick chimneys; and lastly the comfortable brick or stone dwelling, each denoting the different occupants of the farm, or the several stages of the condition of the same occupant. What other nation can boast of such an outlet for its increasing population, such bountiful means of promoting their prosperity, and securing their independence?

To the public lands of the United States, and especially to the existing system by which they are distributed with so much regularity and equity, are we indebted for these signal benefits in our national condition. And every consideration of duty, to ourselves, and to posterity, enjoins that we should abstain from the adoption of any wild project that would cast away this vast national property, holden by the general government in sacred trust for the whole people of the United States, and forbids that we should rashly touch a system which has been so successfully tested by experience.

It has been only within a few years that restless men have thrown before the public their visionary plans for squandering the public domain. With the existing laws the great state of the west is satisfied and contented. She has felt their benefit, and grown great and powerful under their sway. She knows and testifies to the liberality of the general government in the administration of the public lands, extended alike to her and to the other new states. There are no petitions from, no move-

ments in Ohio, proposing vital and radical changes in the system. During the long period, in the House of Representatives, and in the senate, that her upright and unambitious citizen, the first representative of that state, and afterwards successively senator and governor, presided over the committee of public lands, we heard of none of these chimerical schemes. All went on smoothly, and quietly, and safely. No man, in the sphere within which he acted, ever commanded or deserved the implicit confidence of Congress more than Jeremiah Morrow. There existed a perfect persuasion of his entire impartiality and justice between the old states and the new. A few artless but sensible words, pronounced in his plain Scotch Irish dialect, were always sufficient to ensure the passage of any bill or resolution which he reported. For about twenty-five years, there was no essential change in the system; and that which was at last made, varying the price of the public lands from two dollars, at which it had all that time remained, to one dollar and a quarter, at which it has been fixed only about ten or twelve years, was founded mainly on the consideration of abolishing the previous credits.

Assuming the duplication of our population in terms of twenty-five years, the demand for waste land, at the end of every term, will at least be double what it was at the commencement. But the ratio of the increased demand will be much greater than the increase of the *whole* population of the United States, because the western states nearest to, or including the public lands, populate much more rapidly than other parts of the Union; and it will be from them that the greatest current of emigration will flow. At this moment Ohio, Kentucky, and Tennessee, are the most migrating states in the Union.

To supply this constantly augmenting demand, the policy, which has hitherto characterised the general government, has been highly liberal both towards individuals and the new states. Large tracts, far surpassing the demand of purchasers, in every climate and situation, adapted to the wants of all parts of the Union, are brought into the market at moderate prices, the government having sustained all the expense of the original purchase, and of surveying, marking, and dividing the land. For fifty dollars any poor man may purchase forty acres of first rate land; and for less than the wages of one year's labor, he may buy eighty acres. To the new states also has the government been liberal and generous in the grants for schools and for internal improvements, as well as in reducing the debt, contracted for the purchase of lands, by the citizens of those states, who were tempted, in a spirit of inordinate speculation, to purchase too much, or at too high prices.

Such is a rapid outline of this invaluable national property—of the system which regulates its management and distribution, and of the effects of that system. We might here pause, and wonder that there should be a disposition with any to waste or throw

away this great resource, or to abolish a system which has been fraught with so many manifest advantages. Nevertheless, there are such, who, impatient with the slow and natural operation of wise laws, have put forth various pretensions and projects concerning the public lands, within a few years past. One of these pretensions is, an assumption of the sovereign right of the new states to all the lands within their respective limits, to the exclusion of the general government, and to the exclusion of all the people of the United States, those in the new states only excepted. It is my purpose now to trace the origin, examine the nature, and expose the injustice of this pretension.

This pretension may be fairly ascribed to the propositions of the gentleman from Missouri, (Mr. Benton,) to graduate the public lands, to reduce the price, and to cede the "refuse" lands (a term which I believe originated with him,) to the states within which they lie. Prompted, probably, by these propositions, a late Governor of Illinois, unwilling to be outdone, presented an elaborate message to the legislature of that state, in which he gravely and formally asserted the right of that state to all the land of the United States, comprehended within its limits. It must be allowed that the Governor was a most impartial judge, and the legislature a most disinterested tribunal, to decide such a question.

The senator from Missouri was chanting most sweetly to the tune, "refuse lands," "refuse lands," "refuse lands," on the Missouri side of the Mississippi, and the soft strains of his music, having caught the ear of his excellency, on the Illinois side, he joined in chorus, and struck an octave higher. The senator from Missouri wished only to pick up some crumbs which fell from Uncle Sam's table; but the Governor resolved to grasp the whole loaf. The senator modestly claimed only an old smoked, rejected joint; but the stomach of his excellency yearned after the whole hog! The Governor peeped over the Mississippi into Missouri, and saw the senator leisurely roaming in some rich pastures, on bits of refuse lands. He returned to Illinois, and, springing into the grand prairie, determined to claim and occupy it, in all its boundless extent.

Then came the resolution of the senator from Virginia, (Mr. Tazewell,) in May, 1826, in the following words: "*Resolved*, That it is expedient for the United States to cede and surrender to the several states, within whose limits the same may be situated, all the right, title, and interest, of the United States, to any lands lying and being within the boundaries of such states, respectively, upon such terms and conditions as may be consistent with the due observance of the public faith, and with the general interest of the United States." The latter words rendered the resolution somewhat ambiguous; but still it contemplated a cession and surrender. Subsequently the senator from Virginia proposed, after a certain time, a gratuitous surrender of all un-

sold lands, to be applied by the legislature, *in support of education* and the *internal improvement* of the state.

[Here Mr. Tazewell controverted the statement. Mr. Clay called to the secretary to hand him the journal of April, 1828, which he held up to the senate, and read from it the following: "The bill to graduate the price of the public lands, to make donations thereof to actual settlers, and to cede the refuse to the states in which they lie, being under consideration—

"Mr. Tazewell moved to insert the following, as a substitute: That the lands which shall have been subject to sale under the provisions of this act, and shall remain unsold for two years, after having been offered at twenty-five cents per acre, shall be, and the same is ceded to the state in which the same may lie, to be applied by the legislature thereof in support of education, and the internal improvement of the state."]

Thus it appears not only that the honorable senator proposed the cession, but shewed himself the friend of education and internal improvements, by means derived from the general government. For this liberal disposition on his part, I believe, it was that the state of Missouri honored a new county with his name. If he had carried his proposition, that state might well have granted a principality to him.

The memorial of the legislature of Illinois, probably produced by the message of the Governor already noticed, had been presented, asserting a claim to the public lands. And it seems (although the fact had escaped my recollection until I was reminded of it by one of her senators, (Mr. Hendricks,) the other day,) that the legislature of Indiana had instructed her senators to bring forward a similar claim. At the last session, however, of the legislature of that state, resolutions had passed, instructing her delegation to obtain from the general government *cessions* of the unappropriated public lands, on the most favorable terms.—It is clear, from this last expression of the will of that legislature, that, on re-consideration, it believed the right to the public lands to be in the general government, and not in the state of Indiana. For, if they did not belong to the general government, it had nothing to cede; if they belonged already to the state, no cession was necessary to the perfection of the right of the state.

I will here submit a passing observation. If the general government had the power to cede the public lands to the new states for particular purposes, and on prescribed conditions, its power must be unquestionable to make some reservations, for similar purposes, in behalf of the old states. Its power cannot be without limit as to the new states, and circumscribed and restricted as to the old. Its capacity to bestow benefits or dispense justice is not confined to the new states, but is co-extensive with the whole Union. It may grant to all, or it can grant to none. And this comprehensive equity is not only in conformity with the spirit of the cessions in the deeds from the ceding states, but is expressly enjoined by the terms of those deeds.

Such is the probable origin of the pretension which I have been tracing ; and now let us examine its nature and foundation. The argument, in behalf of the new states, is founded on the notion, that as the old states, upon coming out of the revolutionary war, had or claimed a right to all the lands within their respective limits ; and as the new states have been admitted into the Union on the same footing and condition, in all respects, with the old ; therefore they are entitled to all the waste lands, embraced within their boundaries. But the argument forgets that all the revolutionary states had not waste lands ; that some had but very little and others none. It forgets that the right of the states to the waste lands within their limits was controverted ; and that it was insisted that, as they had been conquered in a common war, waged with common means, and attended with general sacrifices, the public lands should be held for the common benefit of all the states. It forgets that, in consequence of this right asserted in behalf of the whole Union, the states that contained any large bodies of waste lands, (and Virginia, particularly, that had the most) ceded them to the Union for the equal benefit of all the states. It forgets that the very equality, which is the basis of the argument, would be totally subverted by the admission of the validity of the pretension. For how would the matter then stand ? The revolutionary states will have divested themselves of the large districts of vacant lands which they contained, for the common benefit of all the states, and those same lands will enure to the benefit of the new states exclusively. There will be, on the supposition of the validity of the pretension, a reversal of the condition of the two classes of states. Instead of the old having, as is alledged, the wild lands which they included at the epoch of the revolution, they will have none, and the new states *all*. And this in the name, and for the purpose, of equality among all the members of the confederacy ! What, especially, would be the situation of Virginia ? She magnanimously ceded an empire in extent for *the common benefit*. And now it is proposed not only to withdraw that empire from the object of its solemn dedication, to the use of all the states, but to deny her any participation in it, and appropriate it exclusively to the benefit of the new states carved out of it.

If the new states had any right to the public lands, in order to produce the very equality contended for, they ought forthwith to cede that right to the Union, for the common benefit of all the states. Having no such right, they ought to acquiesce cheerfully in an equality which does, in fact, now exist between them and the old states.

The committee of manufactures has clearly shown, that if the right were recognized in the new states now existing, to the public lands within their limits, each of the new states, as they might hereafter be successively admitted into the Union, would have the same right ; and consequently that the pretension under ex-

amination embraces, in effect, the whole public domain, that is, a billion and eighty millions of acres of land.

The right of the Union to the public lands is incontestible. It ought not to be considered debateable. It never was questioned but by a few, whose monstrous heresy, it was probably supposed, would escape animadversion from the enormity of the absurdity, and the utter impracticability of the success of the claim. The right of the whole is sealed by the blood of the revolution, founded upon solemn deeds of cession from sovereign states, deliberately executed in the face of the world, or resting upon national treaties concluded with foreign powers, on ample equivalents contributed from the common treasury of the people of the United States.

This right of the whole was stamped upon the face of the new states at the very instant of their parturition. They admitted and recognized it with their first breath. They hold their stations, as members of the confederacy, in virtue of that admission. The senators who sit here, and the members in the house of representatives from the new states, deliberate in Congress with other senators and representatives, under that admission. And, since the new states came into being, they have recognized this right of the general government by innumerable acts.

By their concurrence in the passage of hundreds of laws respecting the public domain, founded upon the incontestible right of the whole of the states.

By repeated applications to extinguish Indian titles, and to survey the lands which they covered.

And by solicitation and acceptance of extensive grants from the general government, of the public lands.

The existence of the new states is a falsehood, or the right of all the states to the public domain is an undeniable truth. They have no more right to the public lands, within their particular jurisdiction, than other states have to the mint, the forts and arsenals, or public ships, within theirs, or than the people of the District of Columbia have to this magnificent capitol, in whose splendid halls we now deliberate.

The equality contended for between all the states now exists. The public lands are now held, and ought to be held, and administered for the common benefit of all. I hope our fellow citizens of Illinois, Indiana and Missouri, will re-consider the matter; that they will cease to take counsel from demagogues who would deceive them, and instil erroneous principles into their ears; and that they will feel and acknowledge that their brethren of Kentucky, and of Ohio, and of all the states in the Union, have an equal right with the citizens of those three states in the public lands. If the possibility of an event so direful as a severance of this Union were for a moment contemplated, and what would be the probable consequence of such an unspeakable calamity, three confederacies were formed out of its fragments, do you imagine that the western confederacy would consent to the



states including the public lands, holding them exclusively for themselves? Can you imagine that the states of Ohio, Kentucky and Tennessee, would quietly renounce their right in all the public lands west of them? No, sir! No, sir! They would wade to their knees in blood before they would make such an unjust and ignominious surrender.

But this pretension, unjust to the old States, unequal as to all, would be injurious to the new States themselves, in whose behalf it has been put forth, if it were recognized. The interest of the new States is not confined to the lands within their limits, but extends to the whole billion and eighty millions of acres. Sanction the claim, however, and they are cut down and restricted to that which is included in their own boundaries. Is it not better for Ohio, instead of the five millions and a half—for Indiana, instead of the fifteen millions—or even for Illinois, instead of the thirty-one or thirty-two millions—or Missouri, instead of the thirty-eight millions—within their respective limits, to retain their interest in those several quantities, and also retain their interest, in common with the other members of the Union, in the countless millions of acres that lie west, or north-west, beyond them?

I will now proceed, Mr. President, to consider the expediency of a reduction of the price of the public lands and the reasons assigned by the land committee, in their report, in favor of that measure. They are presented there in formidable detail, and spread out under seven different heads. Let us examine them: the first is, "because the new States have a clear right to participate in the benefits of a reduction of the revenue to the wants of the government, *by getting the reduction extended to the article of revenue chiefly used by them.*" Here is a renewal of the attempt, made early in the session, to confound the public lands with foreign imports, which was so successfully exposed and refuted by the report of the committee on manufactures. Will not the new States participate in any reduction of the revenue, in common with the old States, without touching the public lands? As far as they are consumers of objects of foreign imports, will they not equally share the benefit with the old States? What right, over and above that equal participation, have the new States to a reduction of the price of the public lands? As States, what right, much less what "clear right" have they to any such reduction? In their sovereign or corporate capacities, what right? Have not all the stipulations between them, *as States*, and the general government, been fully complied with? Have the people, within the new States, considered distinct from the States themselves, any right to such reduction? Whence is it derived? They went there in pursuit of their own happiness. They bought lands from the public because it was their interest to make the purchase, and they enjoy them. Did they, because they purchased some land, which they possess peacefully, ac-

quire any, and what right, in the land which they did not buy? But it may be argued, that by settling and improving these lands, the adjacent public lands are enhanced. True; and so are their own. This enhancement of the public lands was not a consequence which they went there to produce, but was a collateral effect, as to which they were passive. The public does not seek to avail itself of this augmentation in value, by augmenting the price. It leaves that where it was; and the demand for reduction is made in behalf of those who say their labor has increased the value of the public lands, and the claim to reduction is founded upon the fact of enhanced value. The public, like all other landholders, had a right to anticipate that the sale of a part would communicate, incidentally, greater value upon the residue. And, like all other land proprietors, it has the right to ask more for that residue, but it does not; and, for one, I should be as unwilling to disturb the existing price by augmentation as by reduction. But the public lands is the article of revenue which the people of the new States chiefly *consume*. In another part of this report liberal grants of the public lands are recommended, and the idea of holding the public lands as a source of revenue is scouted, because it is said that more revenue could be collected from the settlers, as consumers, than from the lands. Here it seems that the public lands are the article of revenue chiefly consumed by the new States.

With respect to lands yet to be sold, they are open to the purchase, alike, of emigrants from the old States, and settlers in the new. As the latter have most generally supplied themselves with lands, the probability is, that the emigrants are more interested in the question of reduction than the settlers. At all events, there can be no peculiar right to such reduction existing in the new States. It is a question common to all, and to be decided in reference to the interest of the whole Union.

2. "Because the public debt being now paid, the public lands are entirely released from the pledge they were under to that object, and are free to receive a *new and liberal destination, for the relief of the States in which they lie.*"

The payment of the public debt is conceded to be near at hand; and it is admitted that the public lands, being liberated, may now receive a new and liberal destination. Such an appropriation of their proceeds is proposed by the bill reported by the committee of manufactures, and which I shall hereafter call the attention of the Senate more particularly to. But it did not seem just to that committee, that this new and liberal destination of them should be restricted "for the relief of the States in which they lie," exclusively, but should extend to all the States indiscriminately upon principles of equitable distribution.

3. "Because nearly one hundred millions of acres of the land now in market are the refuse of sales and donations, through a long series of years, and are of very little actual value, and only fit to be given to settlers, or abandoned to the States in which they lie."

According to an official statement, the total quantity of public land which had been surveyed up to the 31st of December last, was a little upwards of 162,000,000 acres. Of this a large proportion, perhaps even more than the 100,000,000 acres stated in the land report, has been a long time in market. The entire quantity which has ever been sold by the United States, up to the same day, after deducting lands relinquished and lands reverted to the United States, according to an official statement also, is 25,242,590 acres. Thus, after the lapse of thirty-six years, during which the present land system has been in operation, a little more than twenty-five millions of acres have been sold, not averaging a million per annum, and upwards of one hundred millions of the surveyed lands remain to be sold. The argument of the report of the land committee assumes that "nearly one hundred millions are the refuse of sales and donations," are of very little actual value, and only fit to be given to settlers, or abandoned to the States in which they lie.

Mr. President, let us define as we go—let us analyze. What do the land committee mean by "refuse land?" Do they mean worthless, inferior, rejected land, which nobody will buy at the present government price? Let us look at facts, and make them our guide. The government is constantly pressed by the new States to bring more and more lands into the market; to extinguish more Indian titles; to survey more. The new States themselves are probably urged to operate upon the general government by emigrants and settlers, who see still before them, in their progress west, other new lands which they desire. The general government yields to the solicitations. It throws more land into the market, and it is annually and daily preparing additional surveys of fresh lands. It has thrown and is preparing to throw open to purchasers already 162,000,000 of acres. And now, because the capacity to purchase, in its nature limited by the growth of our population, is totally incompetent to absorb this immense quantity, the government is called upon, by some of the very persons who urged the exhibition of this vast amount to sale, to consider all that remains unsold as refuse! Twenty-five millions in thirty-six years only are sold, and all the rest is to be looked upon as refuse. Is this right? If there had been five hundred millions in market, there probably would not have been more, or much more sold. But I deny the correctness of the conclusion that it is worthless because not sold. It is not sold because there were not people to buy it. You must have gone to other countries, to other worlds, to the moon, and drawn from thence people to buy the prodigious quantity which you offered to sell.

Refuse land! A purchaser goes to a district of country and buys out of a township a section which strikes his fancy. He exhausts his money. Others might have preferred other sections. Other sections may even be better than his. He can with no more propriety be said to have "refused" or rejected all

the other sections, than a man who, attracted by the beauty, charms and accomplishments of a particular lady, marries her, can be said to have rejected or refused all the rest of the sex.

Is it credible that out of 150 or 160,000,000 of acres of land in a valley celebrated for its fertility, there are only about 25,000,000 of acres of good land, and that all the rest is refuse? Take the State of Illinois as an example. Of all the States in the Union, that State probably contains the greatest proportion of rich, fertile lands; more than Ohio, more than Indiana, abounding as they both do in fine lands. Of the thirty-three millions and a half of public lands in Illinois, a little more only than two millions have been sold. Is the residue of thirty-one millions all refuse land? Who that is acquainted in the west can assert or believe it? No, sir; there is no such thing. The unsold lands are unsold because of the reasons already assigned. Doubtless there is much inferior land remaining, but a vast quantity of the best of lands also. For its timber, soil, water power, grazing, minerals, almost all land possesses a certain value. If the lands unsold are refuse and worthless in the hands of the general government, why are they sought after with so much avidity? If in our hands they are good for nothing, what more would they be worth in the hands of the new States? "Only fit to be given to settlers!" What settlers would thank you? what settlers would not scorn a gift of *refuse*, worthless land? If you mean to be generous, give them what is valuable; be manly in your generosity.

But let us examine a little closer this idea of refuse land. If there be any state in which it is to be found in large quantities, that state would be Ohio. It is the oldest of the new states. There the public lands have remained longest exposed in the market. But there we find only five millions and a half to be sold. And I hold in my hand an account of sales in the Zanesville district, one of the oldest in that state, made during the present year. It is in a paper, entitled the "Ohio Republican," published at Zanesville the 26th May, 1832. The article is headed "refuse land," and it states: "It has suited the interest of some to represent the lands of the United States which have remained in market for many years, as mere 'refuse' which cannot be sold; and to urge a rapid reduction of price, and the cession of the residue in a short period, to the states in which they are situated. It is strongly urged against this plan that it is a speculating project, which, by alienating a large quantity of land from the United States, will cause a great increase of price to actual settlers, in a few years—instead of their being able forever, as it may be said is the case under the present system of land sales, to obtain a farm at a reasonable price. To show how far the lands unsold are from being worthless, we copy from the Gazette the following statement of recent sales in the Zanesville district, one of the oldest districts in the west. The sales at the Zanesville land office since the commencement

of the present year, have been as follows: January, \$7,120 80, February \$8,542 67, March \$11,744 75, April \$9,209 19, and since the first of the present month about 9,000 dollars worth have been sold, more than half of which was in 40 acre lots." And there cannot be a doubt that the act, passed at this session, authorizing sales of 40 acres, will, from the desire to make additions to farms, and to settle young members of families, increase the sales very much, at least during this year.

A friend of mine in this city bought in Illinois last fall about 2,000 acres of this refuse land, at the minimum price, for which he has lately refused six dollars per acre. An officer of this body, now in my eye, purchased a small tract of this same refuse land of 160 acres, at second or third hand, entered a few years ago, and which is now estimated at 1,900 dollars. It is a business, a very profitable business, at which fortunes are made in the new states, to purchase these refuse lands, and, without improving them, to sell them again at large advances.

Far from being discouraged by the fact of so much surveyed public land remaining unsold, we should rejoice that this bountiful resource, possessed by our country, remains in almost undiminished quantity, notwithstanding so many new and flourishing states have sprung up in the wilderness, and so many thousands of families have been accommodated. It might be otherwise, if the public land was dealt out by government with a sparing, grudging, griping hand. But they are liberally offered, in exhaustless quantities, and at moderate prices, enriching individuals, and tending to the rapid improvement of the country. The two important facts brought forward and emphatically dwelt on by the committee of manufactures stand in their full force unaffected by any thing stated in the report of the land committee. These facts must carry conviction to every unbiassed mind that will deliberately consider them. The first is the rapid increase of the new states, far outstripping the old, averaging annually an increase of eight and a half per cent., and doubling of course in twelve years. One of these states, Illinois, full of refuse land, increasing at the rate of eighteen and a half per cent.! Would this astonishing growth take place if the lands were too high or all the good land sold? The other fact is the vast increase in the annual sales; in 1830, rising of three millions. Since the report of the committee of manufactures, the returns have come in of the sales of last year, which had been estimated at three millions. They were in fact \$3,566,127 94! Their progressive increase baffles all calculation. Would this happen, if the price were too high?

It is argued that the value of different townships and sections is various; and that it is, therefore, wrong to fix the same price for all. The variety in the quality, situation, and advantages of different tracts, is no doubt great. After the adoption of any system of classification, there would still remain very great

diversity in the tracts belonging to the same class. This is the law of nature. The presumption of inferiority, and of refuse land, founded upon the length of time that the land had been in market, is denied, for reasons already stated. The offer, at public auction, of all lands to the highest bidder, previous to their being sold at private sale, provides in some degree for the variety in the value, since each purchaser pushes the land up to the price which, according to his opinion, it ought to command. But if the price demanded by government is not too high for the good land, (and no one can believe it), why not wait until that is sold before any reduction of price in the bad? And that will not be sold for many years to come. It would be quite as wrong to bring the price of good land down to the standard of the bad, as it is alledged to be to carry the latter up to that of the former. Until the good land is sold there will be no purchasers of the bad: for, as has been stated in the report of the committee on manufactures, a discreet farmer would rather give a dollar and a quarter per acre for first rate land, than accept refuse and worthless land as a present.

“4. Because the speedy extinction of the *federal* title within their limits is necessary to the *independence* of the *new* states, to their *equality* with the *elder* states; to the *development* of their resources; to the *subjection* of their soil to *taxation*, *cultivation* and *settlement*, and to the *proper* enjoyment of their jurisdiction and sovereignty.”

All this is mere assertion and declamation. The general government, at a moderate price, is selling the public land as fast as it can find purchasers. The new states are populating with unexampled rapidity; their condition is now much more eligible than that of some of the old states. Ohio, I am sorry to be obliged to confess, is, in internal improvement and some other respects, fifty years in advance of her elder sister and neighbor, Kentucky. How have her growth and prosperity, her independence, her equality with the elder states, the development of her resources, the taxation, cultivation, and settlement of her soil, or the proper enjoyment of her jurisdiction and sovereignty, been affected or impaired by the federal title within her limits? The federal title! It has been a source of blessings and of bounties, but not one of real grievance. As to the exemption from taxation of the public lands, and the exemption for five years, of those sold to individuals, if the public land belonged to the new states, would they tax it? And as to the latter exemption, it is paid for by the general government, as may be seen by reference to the compacts; and it is moreover, beneficial to the new states themselves, by holding out a motive to emigrants to purchase and settle within their limits.

“6. Because the ramified machinery of the land office department, and the ownership of so much soil, extends the patronage and authority of the general government into the *heart* and *cor-*

ners of the new states, and subjects their *policy* to the danger of a *foreign* and *powerful* influence."

A foreign and powerful influence! The federal government a foreign government! And the exercise of a legitimate control over the national property, for the benefit of the whole people of the United States, a deprecated penetration into the heart and corners of the new states! As to the calamity of the land offices, which are held within them, I believe that is not regarded by the people of those states with quite as much horror as it is viewed by the land committee. They justly consider that they ought to hold those offices themselves, and that no persons ought to be sent from the other *foreign* states of this Union to fill them. And, if the number of the offices were increased, it would not be looked upon by them as a grievous addition to the calamity.

But what do the land committee mean by the authority of this foreign, federal government? Surely they do not desire to get rid of the federal government. And yet the final settlement of the land question will have effected but little in expelling its authority from the bosoms of the new states. Its action will still remain in a thousand forms, and the *heart* and *corners* of the new states will still be invaded by post-offices and post-masters, and post-roads, and the Cumberland road, and various other modifications of its power.

"7th. Because the sum of 425 millions of dollars proposed to be drawn from the new states and territories, by the sale of their soil, at one dollar and twenty-five cents per acre, is unconscionable and impracticable—such as never can be paid—and the bare attempt to raise which, must drain, exhaust and impoverish these states, and give birth to the feelings, which a sense of injustice and oppression never fail to excite, and the excitement of which should be so carefully avoided in a confederacy of free states."

In another part of their report the committee say, speaking of the immense revenue alledged to be derivable from the public lands, "this ideal revenue is estimated at \$425,000,000, for the lands now within the limits of the States and Territories, and at \$1,363,589,691 for the whole federal domain. Such *chimerical* calculations preclude the propriety of argumentative answers." Well, if these calculations are all chimerical, there is no danger from the preservation of the existing land system of draining, exhausting and impoverishing the new States, and of exciting them to rebellion.

The manufacturing committee did not state what the public lands would, in fact, produce. They could not state it. It is hardly a subject of approximate estimate. The committee stated what would be the proceeds, estimated by the minimum price of the public lands; what, at one half of that price; and added that, although there might be much land that would never sell at one dollar and a quarter per acre, "as fresh lands are brought



into market and exposed to sale at public auction, many of them sell at prices exceeding one dollar and a quarter per acre." They concluded by remarking that the least favorable view of regarding them was to consider them a capital yielding an annuity of three millions of dollars at this time; that, in a few years, that annuity would probably be doubled, and that the capital might then be assumed as equal to one hundred millions of dollars.

Whatever may be the sum drawn from the sales of the public lands, it will be contributed, not by citizens of the States alone in which they are situated, but by emigrants from all the States. And it will be raised, not in a single year, but in a long series of years. It would have been impossible for the State of Ohio to have paid, in one year, the millions that have been raised in that State by the sale of public lands; but in a period of upwards of thirty years the payment has been made, not only without impoverishing, but with the constantly increasing prosperity of the State.

Such, Mr. President, are the reasons of the land committee for the reduction of the price of the public lands. Some of them had been anticipated and refuted in the report of the manufacturing committee; and I hope that I have now shown the insolidity of the residue.

I will not dwell upon the consideration urged in that report against any large reduction, founded upon its inevitable tendency to lessen the value of the landed property throughout the Union, and that in the western States especially. That such would be the necessary consequence, no man can doubt who will seriously reflect upon such a measure as that of throwing into the market, immediately, upwards of one hundred and thirty millions of acres, and at no distant period upwards of two hundred millions more, at greatly reduced rates.

If the honorable chairman of the land committee, (Mr. King,) had relied upon his own sound practical sense, he would have presented a report far less objectionable than that which he has made. He has availed himself of another's aid, and the hand of the Senator from Missouri, (Mr. Benton,) is as visible in the composition as if his name had been subscribed to the instrument. We hear again, in this paper, of that which we had so often heard repeated before in debate, by the Senator from Missouri,—the sentiments of Edmund Burke. And what was the state of things in England, to which those sentiments were applied?

England has too little land, and too many people. America has too much land, for the present population of the country, and wants people. The British crown had owned, for many generations, large bodies of land, preserved for game and forest, from which but small revenues were derived. It was proposed to sell out the crown lands, that they might be peopled and cultivated, and that the royal family should be placed on the civil list. Mr.

Burke supported the proposition by convincing arguments. But what analogy is there between the crown lands of the British sovereign, and the public lands of the United States? Are they here locked up from the people, and, for the sake of their game or timber, excluded from sale? Are not they freely exposed in market, to all who want them, at moderate prices?—The complaint is, that they are not sold fast enough, in other words, that people are not multiplied rapidly enough to buy them. Patience, gentlemen of the land committee, patience! The new States are daily rising in power and importance. Some of them are already great and flourishing members of the confederacy. And, if you will only acquiesce in the certain and quiet operation of the laws of God and man, the wilderness will quickly teem with people, and be filled with the monuments of civilization.

The report of the land committee proceeds to notice and to animadvert upon certain opinions of a late Secretary of the Treasury, contained in his annual report, and endeavors to connect them with some sentiments expressed in the report of the committee of manufactures. That report had before been the subject of repeated commentary in the Senate, by the Senator from Missouri, and of much misrepresentation and vituperation in the public press. Mr. Rush showed me the rough draft of that report, and I advised him to expunge the paragraphs in question, because I foresaw that they would be misrepresented, and that he would be exposed to unjust accusation. But knowing the purity of his intentions, believing in the soundness of the views which he presented, and confiding in the candor of a just public, he resolved to retain the paragraphs. I cannot suppose the Senator from Missouri ignorant of what passed between Mr. Rush and me, and of his having, against my suggestions, retained the paragraphs in question, because these facts were all stated by Mr. Rush himself, in a letter addressed to a late member of the House of Representatives, representing the district in which I reside, which letter, more than a year ago, was published in the western papers.

I shall say nothing in defence of myself—nothing to disprove the charge of my cherishing unfriendly feelings and sentiments towards any part of the west. If the public acts in which I have participated; if the uniform tenor of my whole life will not refute such an imputation, nothing that I could here say would refute it.

But I *will* say something in defence of the opinions of my late patriotic and enlightened colleague, not here to speak for himself; and I will vindicate his official opinions from the erroneous glosses and interpretations which have been put upon them.

Mr. Rush, in an official report which will long remain a monument of his ability, was surveying with a statesman's eye the condition of America. He was arguing in favor of the protective policy—the American system. He spoke of the limited vo-

cations of our society, and the expediency of multiplying the means of increasing subsistence, comfort and wealth. He noticed the great and the constant tendency of our fellow-citizens to the cultivation of the soil, the want of a market for their surplus produce, the inexpediency of all blindly rushing to the same universal employment, and the policy of dividing ourselves into various pursuits. He says—"The manner in which the remote lands of the United States are selling and settling, whilst it possibly may tend to increase more quickly the aggregate population of the country, and the mere means of subsistence, does not increase capital in the same proportion. \* \* \* Any thing that may serve to hold back this tendency to diffusion from running *too far and too long into an extreme*, can scarcely prove otherwise than salutary. \* \* \* If the population of these [a majority of the States, including some western States] not yet redundant in fact, though appearing to be so, under this legislative incitement to emigrate, remain fixed in more instances, as it probably would be by extending the *motives* to manufacturing labor, it is believed that the nation would gain in two ways: first, by the more rapid accumulation of capital; and next by the gradual reduction of the *excess* of its agricultural population over that engaged in other vocations. It is not imagined that it ever would be practicable, even if it were desirable, to turn this *stream* of emigration aside; but resources, opened through the influence of the laws, in new fields of industry, to the inhabitants of the States already sufficiently peopled to enter upon them, might operate to lessen, in some degree, and usefully lessen, its absorbing force."

Now, Mr. President, what is there in this view adverse to the west, or unfavorable to its interests? Mr. Rush is arguing on the tendency of the people to engage in agriculture, and the incitement to emigration produced by our laws. Does he propose to change those laws in that particular? Does he propose, in fact, any new measure? So far from suggesting any alteration of the conditions on which the public lands are sold, he expressly says that it is not desirable, if it were practicable, to turn this stream of emigration aside. Leaving all the laws in full force, and all the motives to emigration, arising from fertile and cheap lands, untouched, he recommends the encouragement of a new branch of business, in which all the Union, the west as well as the rest, is interested; thus presenting an option to population to engage in manufactures or in agriculture, at its own discretion. And does such an option afford just ground of complaint to any one? Is it not an advantage to all? Do the land committee desire (I am sure they do not) to create starvation in one part of the Union, that emigrants may be forced into another? If they do not, they ought not to condemn a multiplication of human employments, by which, as its certain consequence, there will be an increase in the means of subsistence and comfort. The objection to Mr. Rush, then, is, that he looked at his *whole*

country, and at all parts of it; and that, whilst he desired the prosperity and growth of the west to advance undisturbed, he wished to build up, on deep foundations, the welfare of all the people.

Mr. Rush knew that there were thousands of the poorer classes who never could emigrate; and that emigration, under the best auspices, was far from being unattended with evil. There are moral, physical, pecuniary obstacles to all emigration; and these will increase as the good vacant lands of the west are removed, by intervening settlements, further and further from society, as it is now located. It is, I believe Dr. Johnson who pronounces that, of all vegetable and animal creation, man is the most difficult to be uprooted and transferred to a distant country; and he was right. Space itself—mountains and seas and rivers are impediments. The want of pecuniary means—the expenses of the outfit, subsistence and transportation of a family—is no slight circumstance. When all these difficulties are overcome, (and how few, comparatively, can surmount them?) the greatest of all remains—that of being torn from one's natal spot; separated, for ever, from the roof under which the companions of his childhood were sheltered, from the trees which have shaded him from summer's heats, the spring from whose gushing fountain he has drunk in his youth, the tombs that hold the precious relics of his venerated ancestors!

But I have said that the land committee had attempted to confound the sentiments of Mr. Rush with some of the reasoning employed by the committee of manufactures against the proposed reduction of the price of the public lands. What is that reasoning? here it is: it will speak for itself; and, without a single comment, will demonstrate how different it is from that of the late Secretary of the Treasury, unexceptionable as that has been shown to be. "The greatest emigration (says the manufacturing committee) that is believed now to take place from any of the States, is from Ohio, Kentucky and Tennessee. The effects of a material reduction in the price of the public lands would be—1st. To lessen the value of real estate in those three States. 2d. To diminish their interest in the public domain, as a common fund for the benefit of all the States. And 3d. To offer what would operate as a bounty to further emigration from those States, occasioning more and more lands, situated within them, to be thrown into the market, thereby not only lessening the value of their lands, but draining them both of their population and currency."

There are good men in different parts, but especially in the Atlantic portion of the Union, who have been induced to regard lightly this vast national property; who have been persuaded that the people of the west are dissatisfied with the administration of it; and who believe that it will, in the end, be lost to the nation; and that it is not worth present care and preservation. But these are radical mistakes. The great body of the west are

satisfied—perfectly satisfied with the general administration of the public lands. They would indeed like, and are entitled to, a more liberal expenditure among them of the proceeds of the sales. For this provision is made by the bill to which I will hereafter call the attention of the senate. But the great body of the west have not called for, and understand too well their real interest to desire any essential change in the system of survey, sale, or price of the lands. There may be a few, stimulated by demagogues, who desire change; and what system is there, what government, what order of human society, that a few do not desire change?

It is one of the admirable properties of the existing system that it contains within itself and carries along principles of conservation and safety. In the progress of its operation, new states become identified with the old, in feeling, in thinking, and in interest. Now, Ohio is as sound as any old state in the Union, in all her views relating to the public lands. She feels that her share in the exterior domain is much more important than would be an exclusive right to the few millions of acres left unsold, within her limits, accompanied by a virtual surrender of her interest in all the other public lands of the United States. And I have no doubt that now, the people of the other new states, left to their own unbiassed sense of equity and justice, would form the same judgment. They cannot believe that what they have not bought, what remains the property of themselves and all their brethren of the United States, in common, belongs to them exclusively. But if I am mistaken—if they have been deceived by erroneous impressions on their mind, made by artful men, as the sales proceed, and the public land is exhausted, and their population increased, like the state of Ohio, they will feel that their true interest points to their remaining co-partners in the whole national domain, instead of bringing forward an unfounded pretension to the inconsiderable remnant which will be then left in their own limits.

And now, Mr. President, I have to say something in respect to the particular plan brought forward by the committee of manufactures for a temporary appropriation of the proceeds of the sales of the public lands.

The committee say that this fund is not wanted by the general government; that the peace of the country is not likely, from present appearances, to be speedily disturbed; and that the general government is absolutely embarrassed in providing against an enormous surplus in the treasury. Whilst this is the condition of the federal government, the states are in want of, and can most beneficially use, that very surplus, with which we do not know what to do. The powers of the general government are limited: those of the states are ample. If those limited powers authorized an application of the fund to some objects, perhaps there are others, of more importance, to which the powers of the

states would be more competent, or to which they may apply a more provident care.

But the government of the whole and of the parts, at last, is but one government of the same people. In form they are two, in substance one. They both stand under the same solemn obligation to promote, by all the powers with which they are respectively entrusted, the happiness of the people; and the people, in their turn, owe respect and allegiance to both. Maintaining these relations, there should be mutual assistance to each other afforded by these two systems. When the states are full-handed, and the coffers of the general government are empty, the states should come to the relief of the general government, as many of them did, most promptly and patriotically, during the late war. When the conditions of the parties are reversed, as is now the case, the states wanting what is almost a burthen to the general government, the duty of this government is to go to the relief of the states.

They were views like these which induced a majority of the committee to propose the plan of distribution contained in the bill now under consideration. For one, however, I will again repeat the declaration, which I made early in the session, that I unite cordially with those who condemn the application of any principle of distribution among the several states, to surplus revenue derived from taxation. I think income derived from taxation stands upon ground totally distinct from that which is received from the public lands. Congress can prevent the accumulation, at least, for any considerable time, of revenue from duties, by suitable legislation, lowering or augmenting the imposts; but it cannot stop the sales of the public lands, without the exercise of arbitrary and intolerable power. The powers of Congress over the public lands are broader and more comprehensive than those which they possess over taxation, and the money produced by it.

This brings me to consider 1st, the power of Congress to make the distribution. By the second part of the third section of the fourth article of the constitution, Congress "have power to *dispose of*, and make all needful rules and regulations respecting the territory or other property of the United States." The power of disposition is plenary, unrestrained, unqualified. It is not limited to a specified object or to a defined purpose, but left applicable to any object or purpose which the wisdom of Congress shall deem fit, acting under its high responsibility.

The government purchased Louisiana and Florida. May it not apply the proceeds of lands within those countries to any object which the good of the Union may seem to indicate? If there be a restraint in the constitution, where is it, what is it?

The uniform practice of the government has conformed to the idea of its possessing full powers over the public lands. They have been freely granted, from time to time, to communities and

individuals, for a great variety of purposes. To states for education, internal improvements, public buildings; to corporations for education; to the deaf and dumb; to the cultivators of the olive and the vine; to pre-emptioners; to Gen. Lafayette, &c.

The deeds from the ceding states, far from opposing, fully warrant the distribution. That of Virginia ceded the land as "a common fund for the use and benefit of *such* of the United States as have become, or shall become, members of the confederation or federal alliance of the said states, Virginia inclusive." The cession was for the benefit of all the states. It may be argued that the fund must be retained in the common treasury, and thence paid out. But by the bill reported, it will come into the common treasury, and then the question how it shall be subsequently applied for the use and benefit of *such* of the United States as compose the confederacy, is one of modus only. Whether the money is disbursed by the general government directly, or is paid out, upon some equal and just principle, to the states, to be disbursed by them, cannot affect the right of distribution. If the general government retained the power of ultimate disbursement, it could execute it only by suitable agents; and what agency is more suitable than that of the states themselves? If the states expend the money, as the bill contemplates, the expenditure will, in effect, be a disbursement for the benefit of the whole, although the several states are the organs of the expenditure; for the whole and all the parts, are identical. And whatever redounds to the benefit of all the parts necessarily contributes, in the same measure, to the benefit of the whole. The great question should be, is the distribution upon equal and just principles? And this brings me to consider,

2d. The terms of the distribution proposed by the bill of the committee of manufactures. The bill proposes a division of the nett proceeds of the sales of the public lands, among the several states composing the Union, according to their federal representative population, as ascertained by the last census; and it provides for new states that may hereafter be admitted into the Union. The basis of the distribution, therefore, is derived from the constitution itself, which has adopted the same rule, in respect to representation and direct taxes. None could be more just and equitable.

But it has been contended, in the land report, that the revolutionary states which did not cede their public lands, ought not to be allowed to come into the distribution. This objection does not apply to the purchases of Louisiana and Florida, because the consideration for them was paid out of the common treasury, and was consequently contributed by all the states. Nor has the objection any just foundation, when applied to the public lands derived from Virginia and the other ceding states; because, by the terms of the deeds, the cessions were made for the use and benefit of all the states. The ceding states having made no exception of any state, what right has the general gov-



ernment to interpolate in the deeds, and now create an exception? The general government is a mere trustee, holding the domain in virtue of those deeds, according to the terms and conditions which they expressly describe; and it is bound to execute the trust accordingly. But how is the fund produced by the public lands now expended? It comes into the common treasury, and is disbursed for the common benefit, without exception of any state. The bill only proposes to substitute to that object, now no longer necessary, another and more useful common object. The general application of the fund will continue, under the operation of the bill, although the particular purposes may be varied.

The equity of the proposed distribution, as it respects the two classes of states, the old and the new, must be manifest to the senate. It proposes to assign to the new states, besides the five per cent. stipulated for in their several compacts with the general government, the further sum of ten per cent. upon the nett proceeds. Assuming the proceeds of the last year, amounting to \$3,566,127 94, as the basis of the calculation, I hold in my hand a paper which shows the sum that each of the seven new states would receive. They have complained of the exemption from taxation of the public lands sold by the general government for five years after the sale. If that exemption did not exist, and they were to exercise the power of taxing those lands, as the average increase of their population is only eight and a half per cent. per annum, the additional revenue which they would raise would only be eight and a half per cent. per annum; that is to say, a state now collecting a revenue of \$100,000 per annum, would collect only \$108,500, if it were to tax lands recently sold. But by the bill under consideration, each of the seven new states will annually receive, as its distributive share, more than the whole amount of its annual revenue.

It may be thought that to set apart ten per cent. to the new states, in the first instance, is too great a proportion, and is unjust towards the old states. But it will be recollected that, as they populate much faster than the old states, and as the last census is to govern in the apportionment, they ought to receive more than the old states. If they receive too much at the commencement of the term, it may be neutralized by the end of it.

After the deduction shall have been made of the fifteen per cent. allotted to the new states, the residue is to be divided among the twenty-four states, old and new, composing the Union. What each of the states would receive, is shown by a table annexed to the report. Taking the proceeds of the last year as the standard, there must be added one-sixth to what is set down in that table as the proportion of the several states.

If the power and the principle of the proposed distribution be satisfactory to the senate, I think the objects cannot fail to be equally so. They are education, internal improvements, and colonization—all great and beneficent objects—all national in

their nature. No mind can be cultivated and improved; no work of internal improvement can be executed in any part of the Union, nor any person of color transported from any of its ports, in which the whole Union is not interested. The prosperity of the whole is an aggregate of the prosperity of the parts.

The states, each judging for itself, will select among the objects enumerated in the bill, that which comports best with its own policy. There is no compulsion in the choice. Some will prefer, perhaps, to apply the fund to the extinction of debt, now burdensome, created for internal improvements; some to new objects of internal improvement; others to education; and others again to colonization. It may be supposed possible that the states will divert the fund from the specified purposes: but against such a misapplication we have, in the first place, the security which arises out of their presumed good faith; and, in the second, the power to withhold subsequent, if there has been any abuse in previous appropriations.

It has been argued that the general government has no power in respect to colonization. Waiving that, as not being a question at this time, the real inquiry is, have the states themselves any such power? For it is to the states that the subject is referred. The evil of a free black population is not restricted to particular states, but extends to and is felt by all. It is not therefore, the slave question, but totally distinct from and unconnected with it. I have heretofore often expressed my perfect conviction that the general government has no constitutional power which it can exercise in regard to African slavery. That conviction remains unchanged. The states in which slavery is tolerated, have exclusively in their own hands the entire regulation of the subject. But the slave states differ in opinion as to the expediency of African colonization. Several of them have signified their approbation of it. The legislature of Kentucky, I believe unanimously, recommended the encouragement of colonization to Congress.

Should a war break out during the term of five years, that the operation of the bill is limited to, the fund is to be withdrawn and applied to the vigorous prosecution of the war. If there be no war, Congress, at the end of the term, will be able to ascertain whether the money has been beneficially expended, and to judge of the propriety of continuing the distribution.

Three reports have been made, on this great subject of the public lands, during the present session of Congress, besides that of the secretary of the treasury at its commencement—two in the senate and one in the house. All three of them agree, 1st, in the preservation of the control of the general government over the public lands; and 2d, they concur in rejecting the plan of a cession of the public lands to the states in which they are situated, recommended by the secretary. The land committee of the senate propose an assignment of fifteen per cent. of the nett proceeds, besides the five per cent. stipulated in the com-

pacts, (making together twenty per cent.) to the new states, and *nothing to the old*.

The committee of manufactures of the senate, after an allotment of an additional sum of ten per cent. to the new states, proposes an equal distribution of the residue among all the states, old and new, upon equitable principles.

The senate's land committee, besides the proposal of a distribution, restricted to the new states, recommends an immediate reduction of the price of "fresh lands," to a minimum of one dollar per acre, and to fifty cents per acre for lands which have been five years or upwards in market."

The land committee of the house is opposed to all distribution, general or partial, and recommends a reduction of the price to one dollar per acre.

And now, Mr. President, I have a few words more to say and shall be done. We are admonished by all our reflections, and by existing signs, of the duty of communicating strength and energy to the glorious Union which now encircles our favored country. Among the ties which bind us together, the public domain merits high consideration. And if we appropriate, for a limited time, the proceeds of that great resource, among the several states, for the important objects which have been enumerated, a new and powerful bond of affection and of interest will be added. The states will feel and recognize the operation of the general government, not merely in power and burdens, but in benefactions and blessings. And the general government in its turn will feel, from the expenditure of the money which it dispenses to the states, the benefits of moral and intellectual improvement of the people, of greater facility in social and commercial intercourse, and of the purification of the population of our country, themselves the best parental sources of national character, national Union, and national greatness. Whatever may be the fate of the particular proposition now under consideration, I sincerely hope that the attention of the nation may be attracted to this most interesting subject; that it may justly appreciate the value of this immense national property; and that, preserving the regulation of it by the will of the whole, for the advantage of the whole, it may be transmitted, as a sacred and inestimable succession, to posterity, for its benefit and blessing for ages to come.

STATEMENT showing the amount received in the year 1831, from the sales of public lands in each of the seven states within which they are situated; and also the amount from sales in the territories. The five per cent. now allowed by law to each of the seven states, upon the sale of lands within the same; the additional ten per cent. proposed to be allowed them; and the proportional dividend of the same seven states in the nett proceeds of the entire sales, after deducting the fifteen per cent. therefrom.

| States, &c.  | Amount received in 1831 | 5 per cent. | 10 per cent. | 15 per cent. | Dividend.  | Grand total |
|--------------|-------------------------|-------------|--------------|--------------|------------|-------------|
| Ohio,        | \$428,252 70            | 21,412 64   | 42,825 27    | 64,237 91    | 243,147 22 | 307,385 13  |
| Indiana,     | 695,848 45              | 34,792 42   | 69,584 84    | 104,377 26   | 89,121 11  | 193,498 37  |
| Illinois,    | 426,824 63              | 21,341 23   | 42,682 46    | 64,023 69    | 40,827 55  | 104,851 24  |
| Missouri,    | 375,633 42              | 18,781 67   | 37,563 34    | 56,345 01    | 33,883 57  | 90,228 58   |
| Alabama,     | 894,265 81              | 44,713 29   | 89,426 58    | 134,139 87   | 68,200 08  | 202,339 95  |
| Mississippi, | 206,219 43              | 10,310 97   | 20,621 94    | 30,932 91    | 28,671 55  | 59,604 46   |
| Louisiana,   | 86,192 18               | 4,309 60    | 8,619 21     | 12,928 81    | 44,606 93  | 57,535 74   |
| Total,       | 3,113,236 62            |             |              | \$466,985 46 |            |             |
| Michigan,    | 401,542 67              |             |              |              |            |             |
| Arkansas,    | 16,311 29               |             |              |              |            |             |
| Florida,     | 35,037 36               |             |              |              |            |             |

**STATEMENT** showing the dividend of each state, (according to its federal population), in the proceeds of the public lands, after deducting therefrom fifteen per cent. as an additional dividend for the states in which the public land is situated.

[Estimated proceeds of lands, \$3,000,000; deduct fifteen per cent. \$450,000, and \$2,500,000 remains to be divided among all the states according to their population.]

| STATES.             | Federal population.<br>1830. | Shares in proceeds of<br>public lands. |
|---------------------|------------------------------|----------------------------------------|
| Maine, - - -        | 399,437                      | \$85,387 48                            |
| New Hampshire, - -  | 269,326                      | 57,573 71                              |
| Massachusetts, - -  | 610,408                      | 130,487 59                             |
| Vermont, - - -      | 280,657                      | 59,995 93                              |
| Rhode Island, - - - | 97,194                       | 20,777 12                              |
| Connecticut, - - -  | 297,665                      | 63,631 72                              |
| New-York, - - -     | 1,918,553                    | 410,128 29                             |
| New Jersey, - - -   | 319,922                      | 68,389 59                              |
| Pennsylvania, - - - | 1,348,072                    | 288,176 64                             |
| Delaware, - - -     | 75,432                       | 15,202 93                              |
| Maryland, - - -     | 405,843                      | 86,756 89                              |
| Virginia, - - -     | 1,023,503                    | 218,793 82                             |
| North Carolina, - - | 639,747                      | 136,758 45                             |
| South Carolina, - - | 455,025                      | 97,270 51                              |
| Georgia, - - -      | 429,811                      | 91,880 52                              |
| Alabama, - - -      | 262,508                      | 56,116 22                              |
| Mississippi, - - -  | 110,358                      | 23,591 19                              |
| Louisiana, - - -    | 171,694                      | 36,702 95                              |
| Tennessee, - - -    | 625,263                      | 133,662 21                             |
| Kentucky, - - -     | 621,832                      | 132,928 77                             |
| Ohio, - - -         | 935,884                      | 200,063 54                             |
| Indiana, - - -      | 343,031                      | 73,329 59                              |
| Illinois, - - -     | 157,147                      | 33,593 25                              |
| Missouri, - - -     | 130,419                      | 27,879 68                              |
|                     | <hr/> 11,928,731             |                                        |

## ON DUTIES AND IMPORTS.

*February 12, 1833.*

Mr. Clay rose and addressed the senate to the following effect—

I yesterday, sir, gave notice that I should ask leave to introduce a bill to modify the various acts imposing duties on imports. I, at the same time, added, that I should, with the permission of the senate, offer an explanation of the principle on which that bill is founded. I owe, sir, an apology to the senate for this course of action, because, although strictly parliamentary, it is, nevertheless, out of the usual practice of this body ; but it is a course which I trust that the senate will deem to be justified by the interesting nature of the subject. I rise, sir, on this occasion, actuated by no motives of a private nature, by no personal feelings, and for no personal objects ; but exclusively in obedience to a sense of the duty which I owe to my country. I trust, therefore, that no one will anticipate on my part any ambitious display of such humble powers as I may possess. It is sincerely my purpose to present a plain, unadorned, and naked statement of facts connected with the measure which I shall have the honor to propose, and with the condition of the country. When I survey, sir, the whole face of our country, I behold all around me evidences of the most gratifying prosperity, a prospect which would seem to be without a cloud upon it, were it not that through all parts of the country there exist great dissensions and unhappy distinctions, which, if they can possibly be relieved and reconciled by any broad scheme of legislation adapted to all interests, and regarding the feelings of all sections, ought to be quieted ; and leading to which object any measure ought to be well received.

In presenting the modification of the tariff laws, which I am now about to submit, I have two great objects in view. My first object looks to the tariff. I am compelled to express the opinion, formed after the most deliberate reflection, and on full survey of the whole country, that whether rightfully or wrongfully, the tariff stands in imminent danger. If it should even be preserved during this session, it must fall at the next session. By what circumstances, and through what causes, has arisen the necessity for this change in the policy of our country, I will not pretend now to elucidate. Others there are who may differ from the impressions which my mind has received upon this point. Owing, however, to a variety of concurrent causes, the tariff, as it now exists, is in imminent danger, and if the system can be preserved beyond the next session, it must be by some means not now within the reach of human sagacity. The fall of that policy, sir, would be productive of consequences calamitous indeed. When I look to the variety of interests which are involved, to the num-

ber of individuals interested, the amount of capital invested, the value of the buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing art which have sprung up under the fostering care of this government, I cannot contemplate any evil equal to the sudden overthrow of all those interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France was condemned to exile and ruin by that measure. But in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country. There is no evil, in my opinion, equal to the consequences which would result from such a catastrophe.

What, sir, are the complaints which unhappily divide the people of this great country. On the one hand, it is said by those who are opposed to the tariff, that it unjustly taxes a portion of the people, and paralyzes their industry; that it is to be a perpetual operation; that there is to be no end to the system; which, right or wrong, is to be urged to their inevitable ruin. And what is the just complaint, on the other hand, of those who support the tariff? It is, that the policy of the government is vacillating and uncertain, and that there is no stability in our legislation. Before one set of books are fairly opened, it becomes necessary to close them, and to open a new set. Before a law can be tested by experiment, another is passed. Before the present law has gone into operation—before it is yet nine months old—passed, as it was, under circumstances of extraordinary deliberation, the fruit of nine months labor—before we know any thing of its experimental effects, and even before it commences its operations, we are required to repeal it. On one side we are urged to repeal a system which is fraught with ruin; on the other side, the check now imposed on enterprise, and the state of alarm in which the public mind has been thrown, renders all prudent men desirous, looking ahead a little way, to adopt a state of things, on the stability of which they may have reason to count. Such is the state of feeling on the one side and on the other. I am anxious to find out some principle of mutual accommodation, to satisfy, as far as practicable, both parties—to increase the stability of our legislation; and at some distant day—but not too distant, when we take into view the magnitude of the interests which are involved—to bring down the rate of duties to that revenue standard for which our opponents have so long contended. The basis on which I wish to found this modification, is one of time; and the several parts of the bill to which I am about to call the attention of the Senate, are founded on this basis. I propose to give protection to our manufactured articles, adequate protection, for a length of time,



which, compared with the length of human life, is very long, but which is short, in proportion to the legitimate discretion of every wise and parental system of government—securing the stability of legislation, and allowing time for a gradual reduction, on one side; and on the other, proposing to reduce the duties to that revenue standard for which the opponents of the system have so long contended. I will now proceed to lay the provisions of this bill before the Senate, with a view to draw their attention to the true character of the bill.

Mr. C. then proceeded to read the first section of the bill, in the words in which it will be found below. According to this section, he said it would be perceived that it was proposed to come down to the revenue standard at the end of little more than nine years and a half, giving a protection to our own manufactures which he hoped would be adequate, during the intermediate time. Mr. C. recapitulated the provisions of the sections, and showed by various illustrations how they would operate.

Mr. C. then proceeded to read and comment upon the second section of the bill, as recited below. It would be recollected, he said, that at the last session of Congress, with a view to make a concession to the southern section of the country, low priced woollens, those supposed to enter into the consumption of slaves and the poorer classes of persons, were taken out of the general class of duties on woollens, and the duty on them reduced to five per cent. It would be also recollected that at that time the gentlemen from the south had said that this concession was of no consequence, and that they did not care for it, and he believed that they did not now consider it of any greater importance. As, therefore, it had failed of the purpose for which it was taken out of the common class, he thought it ought to be brought back again, and placed by the side of the other descriptions of woollens, and made subject to the same reduction of duty as proposed by this section.

Having next read through the third section of the bill, Mr. C. said that, after the expiration of a term of years, this section laid down a rule by which the duties were to be reduced to the revenue standard, which had been so long and so earnestly contended for. Until otherwise directed, and in default of provision being made for the wants of the government in 1842, a rule was thus provided for the rate of duties thereafter, Congress being in the mean time authorized to adopt any other rule which the exigencies of the country, or its financial condition, might require. That is to say, if, instead of the duty of twenty per cent. proposed, fifteen or seventeen per cent. of duty was sufficient, or twenty-five per cent. should be found necessary, to produce a revenue to defray the expenses of an economical administration of the government, there was nothing to prevent either of those rates, or any other, from being fixed upon; whilst the rate of twenty per cent. was introduced to guard against

any failure on the part of Congress to make the requisite provision in due season.

This section of the bill, Mr. C. said, contained also another clause, suggested by that spirit of harmony and conciliation which he prayed might preside over the councils of the Union at this trying moment. It provided (what those persons who are engaged in manufactures have so long anxiously required for their security) that duties shall be paid in ready money—and we shall thus get rid of the whole of that credit system, into which an inroad was made, in regard to woollens, by the act of the last session. This section further contained a proviso that nothing in any part of this act should be construed to interfere with the freest exercise of the power of Congress to lay any amount of duties, in the event of war breaking out between this country and any foreign power.

Mr. C. having then read the fourth section of the bill, said that one of the considerations strongly urged for a reduction of the tariff at this time was, that the government was likely to be placed in a dilemma by having an overflowing revenue; and this apprehension was the ground of an attempt totally to change the protective policy of the country. The section which he had read, Mr. C. said, was an effort to guard against this evil, by relieving altogether from duty a portion of the articles of import now subject to it. Some of these, he said, would, under the present rate of duty upon them, produce a considerable revenue; the article of silks alone would probably yield half a million of dollars per annum. If it were possible to pacify present dissensions, and let things take their course, he believed that no difficulty need be apprehended. If, said he, the bill which this body passed at the last session of Congress, and has again passed at this session, shall pass the other House, and become a law, and the gradual reduction of duties should take place which is contemplated by the first section of this bill, we shall have settled two (if not three) of the great questions which have agitated this country, that of the tariff, of the public lands, and, I will add, of internal improvement also. For, if there should still be a surplus revenue, that surplus might be applied, until the year 1842, to the completion of the works of internal improvement already commenced; and, after 1842, a reliance for all funds for purposes of internal improvement should be placed upon the operation of the land bill, to which he had already referred.

It was not his object, Mr. C. said, in referring to that measure in connexion with that which he was about to propose, to consider them as united in their fate, being desirous, partial as he might be to both, that each should stand or fall upon its own intrinsic merits. If this section of the bill, adding to the number of free articles, should become law, along with the reduction of duties proposed by the first section of the bill, it was by no means sure that we should have any surplus revenue at all. He had been astonished indeed at the process of reasoning by which

the secretary of the treasury had arrived at the conclusion that we should have a surplus revenue at all, though he admitted that such a conclusion could be arrived at in no other way. But what was this process? Duties of a certain rate now exist. The amount which they produce is known; the secretary, proposing a reduction of the rate of duty, supposes that the duties will be reduced in proportion to the amount of the reduction of duty. Now, Mr. C. said, no calculation could be more uncertain than that. Though perhaps, the best that the secretary could have made, it was still all uncertainty; dependent upon the winds and the waves, on the mutations of trade, and on the course of commercial operations. If there was any truth in political economy, it could not be that the result would agree with the prediction; for we are instructed by all experience that the consumption of any article is in proportion to the reduction of its price, and that in general it may be taken as a rule, that the duty upon an article forms a portion of its price. Mr. C. said he did not mean to impute any improper design to any one; but, if it had been so intended, no scheme for getting rid of the tariff could have been more artfully devised to effect its purposes, than that which thus calculated the revenue, and in addition, assumed that the expenditure of the government every year would be so much, &c. Could any one here say what the future expenditure of the government would be? In this young, great, and growing community, can we say what will be the expenditure of the government even a year hence, much less what it will be, three, or four, or five years hence? Yet it had been estimated, on assumed amounts, founded on such uncertain data, both of income and expenditure, that the revenue might be reduced so many millions a year!

Mr. C. asked pardon for this digression, and returned to the examination of articles in the fourth section, which were proposed to be left free of duty. The duties on these articles, he said, now varied from five to ten per cent., ad valorem; but low as they were, the aggregate amount of revenue which they produced was considerable. By the bill of the last session, the duties on French silks was fixed at five per cent., and that on Chinese silks at ten per cent., ad valorem. By the bill now proposed, the duty on French silks was proposed to be repealed, leaving the other untouched. He would frankly state why he made this distinction. It had been a subject of anxious desire with him to see our commerce with France increased. France, though not so large a customer in the great staples of our country as Great Britain, was a great growing customer. He had been much struck with a fact going to prove this, which accidentally came to his knowledge the other day; which was, that within the short period of fourteen years, the amount of consumption in France of the great southern staple of cotton had been *tripled*. Again, it was understood that the French silks of the lower grades of quality could not sustain a competition with the Chinese

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without some discrimination of this sort. He had understood, also, that the duty imposed upon this article at the last session had been very much complained of on the part of France; and, considering all the circumstances connected with the relations between the two governments, it appeared to him desirable to make this discrimination in favor of the French product. If the Senate should think differently, he should be content. If indeed, they should think proper to strike out this section altogether, he should cheerfully submit to their decision.

After reading the fifth and sixth sections:

Mr. Clay said, he would now take a few of some of the objections which would be made to the bill. It might be said that the act was prospective, that it bound our successors, and that we had no power thus to bind them. It was true that the act was prospective, and so was almost every act which we ever passed, but we could repeal it the next day. It was the established usage to give all acts a prospective operation. In every tariff law there were some provisions which go into operation immediately, and others at a future time. Each Congress legislated according to their own views of propriety; their acts did not bind their successors, but created a species of public faith which would not rashly be broken. But, if this bill should go into operation, as he hoped even against hope, that it might, he had not a doubt that it would be adhered to by all parties. There was but one contingency which would render a change necessary, and that was the intervention of a war, which was provided for in the bill. The hands of Congress were left untied in this event, and they would be at liberty to resort to any mode of taxation which they might propose. But, if we suppose peace to continue, there would be no motive for disturbing the arrangement, but on the contrary, every motive to carry it into effect. In the next place, it will be objected to the bill, by the friends of the protective policy, of whom he held himself to be one, for his mind was immutably fixed in favor of that policy, that it abandoned the power of protection. But, he contended, in the first place, that a suspension of the exercise of the power was not an abandonment of it; for the power was in the constitution according to our theory—was put there by its framers, and could only be dislodged by the people. After the year 1842, the bill provided that the power should be exercised in a certain mode. There were four modes by which the industry of the country could be protected.

First, the absolute prohibition of rival foreign articles that was totally unattempted by the bill; but it was competent to the wisdom of the government to exert the power whenever they wished. Second, the imposition of duties in such a manner as to have no reference to any object but revenue. When we had a large public debt in 1816, the duties yielded thirty-seven millions, and paid so much more of the debt, and subsequently they yielded

but eight or ten millions, and paid so much less of the debt. Sometimes we had to trench on the sinking fund. Now we have no public debt to absorb the surplus revenue, and no motive for continuing the duties. No man can look at the condition of the country and say that we can carry on this system, with accumulating revenue, and no practicable way of expending it. The third mode was attempted last session, in a resolution which he had the honor to submit last year, and which in fact ultimately formed the basis of the act which finally passed both houses. This was to raise as much revenue as was wanted for the use of the government and no more, but to raise it from the protected and not from the unprotected articles. He would say that he regretted most deeply that the greater part of the country would not suffer this principle to prevail. It ought to prevail—and the day, in his opinion, would come when it would be adopted as the permanent policy of the country. Shall we legislate for our own wants or that of a foreign country? To protect our own interests in opposition to foreign legislation was the basis of this system. The fourth mode in which protection could be afforded to domestic industry was to admit free of duty every article which aided the operations of the manufacturers. These were the four modes for protecting our industry; and to those who say that the bill abandons the power of protection, he would reply that it did not touch that power; and that the fourth mode, so far from being abandoned, is extended and upheld by the bill. The most that can be objected to the bill by those with whom he had co-operated to support the protective system, was that, in consideration of nine and a half years of peace, certainty and stability, the manufacturers relinquished some advantages which they now enjoyed. What was the principle which had always been contended for in this and in the other house? That, after the accumulation of capital and skill, the manufacturers would stand alone, unaided by the government, in competition with the imported articles from any quarter. Now give us time; cease all fluctuations and agitations, for nine years, and the manufacturers, in every branch, will sustain themselves against foreign competition. If we can see our way clearly for nine years to come, we can safely leave to posterity to provide for the rest. If the tariff be overthrown, as may be its fate next session, the country will be plunged into extreme distress and agitation. I, said Mr. Clay, want harmony. I wish to see the restoration of those ties which have carried us triumphantly through two wars. I delight not in this perpetual turmoil. Let us have peace, and become once more united as a band of brothers.

It may be said that the farming interest cannot subsist under a twenty per cent. ad valorem duty. His reply was, "sufficient for the day is the evil thereof." He would leave it to the day when the reduction took effect, to settle the question. When the reduction takes place, and the farmer cannot live under it, what will he do? I will tell you, said Mr. Clay, what he ought to do.

He ought to try it—make a fair experiment of it—and if he cannot live under it, let him come here and say that he is bankrupt, and ruined. If then nothing can be done to relieve him——sir, I will not pronounce the words, for I will believe that something will be done, and that relief will be afforded, without hazarding the peace and integrity of the Union. This confederacy is an excellent contrivance, but it must be managed with delicacy and skill. There were an infinite variety of prejudices and local interests to be regarded, but they should all be made to yield to the Union.

If the system proposed cannot be continued, let us try some intermediate system, before we think of any other dreadful alternative. Sir, it will be said, on the other hand—for the objections are made by the friends of protection principally—that the time is too long; that the intermediate reductions are too inconsiderable, and that there is no guarantee that, at the end of the time stipulated, the reduction proposed would be allowed to take effect. In the first place, should be recollected, the diversified interests of the country—the measures of the government which preceded the establishment of manufactures—the public faith in some degree pledged for their security; and the ruin in which rash and hasty legislation would involve them. He would not dispute about terms. It would not, in a court of justice, be maintained that the public faith was pledged for the protection of manufactures; but there were other pledges which men of honor are bound by, besides those of which the law can take cognizance.

If we excite, in our neighbor, a reasonable expectation which induces him to take a particular course of business, we are in honor bound to redeem the pledge thus tacitly given. Can any man doubt that a large portion of our citizens believed that the system would be permanent? The whole country expected it. The security against any change of the system proposed by the bill, was in the character of the bill, as a compromise between two conflicting parties. If the bill should be taken by common consent, as we hope it will be—the history of the revenue will be a guarantee of its permanence. The circumstances under which it was passed will be known and recorded—and no one will disturb a system which was adopted with a view to give peace and tranquillity to the country.

The descending gradations by which he proposed to arrive at the minimum of duties, must be gradual. He never would consent to any precipitate operation to bring distress and ruin on the community.

Now, said Mr. C. viewing it in this light, it appeared that there were eight years and a half, and nine years and a half, taking the ultimate time, which would be an efficient protection, the remaining duties would be withdrawn by a biennial reduction. The protective principle must be said to be, in some measure, relinquished at the end of eight years and a half. This period could not appear unreasonable, and he thought that no member

of the Senate, or any portion of the country, ought to make the slightest objection. It now remained for him to consider the other objection—the want of a guarantee to there being an ulterior continuance of the duties imposed by the bill, on the expiration of the term which it prescribes. The best guarantees would be found in the circumstances under which the measure would be passed. If it was passed by common consent; if it was passed with the assent of a portion—a considerable portion of those who had directly hitherto supported this system, and by a considerable portion of those who opposed it—if they declared their satisfaction with the measure, he had no doubt the rate of duties guaranteed, would be continued after the expiration of the term, if the country continued at peace. And, at the end of the term, when the experiment would have been made of the efficiency of the mode of protection fixed by the bill, while the constitutional question had been suffered to lie dormant, if war should render it necessary, protection might be carried up to prohibition; while if the country should remain at peace, and this measure go into full operation, the duties would be gradually lowered down to the revenue standard, which had been so earnestly wished for.

But suppose that he was wrong in all these views, for there were no guarantees, in one sense of the term, of human infallibility. Suppose a different state of things in the south—that this Senate, from causes which he should not dwell upon now, but which were obvious to every reflecting man in this country—causes which had operated for years past, and which continued to operate—suppose, for a moment, that there should be a majority in the Senate in favor of the southern views, and that they should repeal the whole system at once, what guarantee would we have that the repealing of the law would not destroy those great interests which it is so important to preserve? What guarantee would you have that the thunders of those powerful manufacturers would not be directed against your capitol, because of this abandonment of their interests, and because you had given them no protection against foreign legislation. Sir, said Mr. C. if you carry your measure of repeal without the consent, at least, of a portion of those who are interested in the preservation of manufactures, you have no security, no guarantee, no certainty, that any protection will be continued. But if the measure should be carried by the common consent of both parties, we shall have all security; history will faithfully record the transaction; narrate under what circumstances the bill was passed; that it was a pacifying measure; that it was as oil poured from the vessel of the Union to restore peace and harmony to the country. When all this was known, what Congress, what Legislature, would mar the guarantee? What man who is entitled to deserve the character of an American statesman, would stand up in his place in either house of Congress and disturb this treaty of peace and amity?

Sir, said Mr. C., I will not say that it may not be disturbed.



All that I say is, that here is all the reasonable security that can be desired by those on the one side of the question, and much more than those on the other would have by any unfortunate concurrence of circumstances. Such a repeal of the whole system should be brought about as would be cheerfully acquiesced in by all parties in this country. All parties might find in this measure some reasons for objection. And what human measure was there which was free from objectionable qualities? It had been remarked, and justly remarked, by the great father of our country himself, that if that great work which is the charter of our liberties, and under which we have so long flourished, had been submitted, article by article, to all the different states composing this Union, that the whole would have been rejected; and yet, when the whole was presented together, it was accepted as a whole. He (Mr. C.) would admit that his friends did not get all they could wish for; and the gentlemen on the other side did not obtain all they might desire; but both would gain all that in his humble opinion was proper to be given in the present condition of this country. It might be true that there would be loss and gain in this measure. But how was this loss and gain distributed? Among our countrymen. What we lose, no foreign hand gains; and what we gain, has been no loss to any foreign power. It is among ourselves the distribution takes place. The distribution is founded on that great principle of compromise and concession which lies at the bottom of our institutions, which gave birth to the constitution itself, and which has continued to regulate us in our onward march, and conducted the nation to glory and renown.

It remained for him now to touch another topic. Objections had been made to all legislation at this session of Congress, resulting from the attitude of one of the states of this confederacy. He confessed that he felt a very strong repugnance to any legislation at all on this subject at the commencement of the session, principally because he misconceived the purposes, as he had found from subsequent explanation, which that state had in view. Under the influence of more accurate information, he must say that the aspect of things since the commencement of the session had, in his opinion, greatly changed. When he came to take his seat on that floor, he had supposed that a member of this Union had taken an attitude of defiance and hostility against the authority of the general government. He had imagined that she had arrogantly required that we should abandon at once a system which had long been the settled policy of this country. Supposing that she had manifested this feeling, and taken up this position, he (Mr. C.) had, in consequence, felt a disposition to hurl defiance back again, and to impress upon her the necessity of the performance of her duties as a member of this Union. But since his arrival here, he found that South Carolina did not contemplate force, for it was denied and denounced by that state.

She disclaimed it—and asserted that she is merely making an experiment. That experiment is this: by a course of state legislation, and by a change in her fundamental laws, she is endeavoring by her civil tribunals to prevent the general government from carrying the laws of the United States into operation within her limits. That she has professed to be her object. Her appeal was not to arms, but to another power; not to the sword, but to the law. He must say, and he would say it with no intention of disparaging that state, or any other of the states—it was a feeling unworthy of her. As the purpose of South Carolina was not that of force, this at once disarmed, divested legislation of one principal objection, which it appeared to him existed against it at the commencement of this session. Her purposes are all of a civil nature. She thinks she can oust the United States from her limits; and unquestionably she had taken good care to prepare her judges beforehand by swearing them to decide in her favor. If we submitted to her, we should thus stand but a poor chance of obtaining justice. She disclaimed any intention of resorting to force unless we should find it indispensable to execute the laws of the Union by applying force to her. It seemed to him the aspect of the attitude of South Carolina had changed—or rather, the new light which he had obtained, enabled him to see her in a different attitude—and he had not truly understood her until she had passed her laws, by which it was intended to carry her ordinance into effect. Now, he ventured to predict that the state to which he had referred must ultimately fail in her attempt. He disclaimed any intention of saying anything to the disparagement of that state. Far from it. He thought that she had been rash, intemperate and greatly in error; and to use the language of one of her own writers—made up an issue unworthy of her. He thought the verdict and judgment must go against her. From one end to the other of this continent, by acclamation, as it were, nullification had been put down, and put down in a manner more effectually than by a thousand wars or a thousand armies; by the irresistible force, by the mighty influence of public opinion. Not a voice beyond the single state of South Carolina had been heard in favor of the principle of nullification, which she has asserted by her own ordinance; and he would say, that she must fail in her lawsuit. He would express two opinions; the first of which was, that it is not possible for the ingenuity of man to devise a system of state legislation to defeat the execution of the laws of the United States, which could not be countervailed by federal legislation.

A state might take it upon herself to throw obstructions in the way of the execution of the laws of the federal government; but federal legislation can follow at her heel quickly, and successfully counteract the course of state legislation. The framers of the constitution foresaw this, and the constitution has guarded against it. What has it said? It is declared, in the clause enumerating the powers of this government, that Congress shall

have all power to carry into effect all the powers granted by the constitution, in any branch of the government under the sweeping clause—for they have not specified contingencies, because they could not see what was to happen—but whatever powers were necessary, all, all are given to this government by the fundamental law, necessary to carry into effect those powers which are vested by that constitution in the federal government. That is one reason. The other is, that it is not possible for any state, provided this government is administered with prudence and propriety, so to shape its laws as to throw upon the general government the responsibility of first resorting to the employment of force; but, if force at all is employed, it must be by state legislation, and not federal legislation; and the responsibility of employing that force must rest with, and attach to, the state itself.

I (said Mr. C.) shall not go into the details of this bill. I merely throw out these sentiments for the purpose of showing you that South Carolina, having declared her purpose to be this, to make an experiment whether, by a course of legislation, in a conventional form, or a legislative form of enactment, she can defeat the execution of certain laws of the United States, I, for one, will express my opinion—that I believe it is utterly impracticable, whatever course of legislation she may choose to adopt, for her to succeed. I am ready, for one, to give the tribunals and the executive of the country, whether that executive has or has not my confidence, the necessary measures of power and authority to execute the laws of the Union. But I would not go a hair's breadth further than what was necessary for those purposes. Up to that point I would go, and cheerfully go; for it is my sworn duty, as I regard it, to go to that point.

Again: taking this view of the subject, South Carolina is doing nothing more, except that she is doing it with more rashness, than some other states have done—that respectable state, Ohio, and, if he was not mistaken, the state of Virginia also. An opinion prevailed some years ago, that if you put the laws of a state into a penal form, you could oust federal jurisdiction out of the limits of that state, because the state tribunals had an exclusive jurisdiction over penalties and crimes, and it was inferred that no federal court could wrest the authority from them. According to that principle, the state of Ohio passed the laws taxing the branch of the United States bank, and high penalties were to be enforced against every person who should attempt to defeat her taxation. The question was tried. It happened to be my lot, (said Mr. C.,) to be counsel at law to bring the suit against the state, and to maintain the federal authority. The trial took place in the state of Ohio; and it is one of the many circumstances which redounded to the honor of that patriotic state, she submitted to federal force. I went to the office of the public treasury myself to which was taken the money of the bank of the United States, it having remained there in seques-

tration until it was peaceably rendered, in obedience to the decision of the court, without any appeal to arms. In a building which I had to pass in order to reach the treasury, I saw the most brilliant display of arms and musquetry that I ever saw in my life; but not one was raised or threatened to be raised against the due execution of the laws of the United States, when they were then enforced. In Virginia, (but I am not sure that I am correct in the history of it,) there was a case of this kind. Persons were liable to penalties for selling lottery tickets. It was contended that the state tribunals had an exclusive jurisdiction over the subject. The case was brought before the Supreme Court—the parties were a Myers and somebody else, and it decided as it must always decide; no matter what obstruction—no matter what the state law may be, the constitutional laws of the United States must follow and defeat it, in its attempt to arrest the federal arm in the exercise of its lawful authority. South Carolina has attempted—and, I repeat it, in a much more offensive way, attempted to defeat the execution of the laws of the United States. But it seems that, under all the circumstances of the case, she has, for the present, determined to stop here, in order that, by our legislation, we may prevent the necessity of her advancing any further. But there are other reasons for the expediency of legislation at this time. Although I came here fully impressed with a different opinion, my mind has now become reconciled.

The memorable first of February is past. I confess I did feel an unconquerable repugnance to legislation until that day should have passed, because of the consequences that were to ensue. I hoped that the day would go over well. I feel, and I think that we must all confess, we breathe a freer air than when the restraint was upon us. But this is not the only consideration. South Carolina has practically postponed her ordinance, instead of letting it go into effect, till the fourth of March. Nobody who has noticed the course of events, can doubt that she will postpone it by still further legislation, if Congress should rise without any settlement of this question. I was going to say, my life on it, she will postpone it to a period subsequent to the fourth of March. It is in the natural course of events. South Carolina must perceive the embarrassments of her situation. She must be desirous—it is unnatural to suppose that she is not—to remain in the Union. What! a state whose heroes in its gallant ancestry fought so many glorious battles along with those of the other states of this Union—a state with which this confederacy is linked by bonds of such a powerful character! I have sometimes fancied what would be her condition if she goes out of this Union; if her five hundred thousand people should at once be thrown upon their own resources. She is out of the Union. What is the consequence? She is an independent power. What then does she do? She must have armies and fleets, and an expensive government—have foreign missions—

she must raise taxes—enact this very tariff, which had driven her out of the Union, in order to enable her to raise money, and to sustain the attitude of an independent power. If she should have no force, no navy to protect her, she would be exposed to piratical incursions. Their neighbor, St. Domingo, might pour down a horde of pirates on her borders, and desolate her plantations. She must have her embassies, therefore must she have a revenue. And, let me tell you, there is another consequence—an inevitable one; she has a certain description of persons recognized as property south of the Potomac, and west of the Mississippi, which would be no longer recognized as such, except within their own limits. This species of property would sink immediately to one half of its present value, for it is Louisiana and the south-western states which are her great market.

But I will not dwell on this topic any longer. I say it is utterly impossible that South Carolina ever desired, for a moment, to become a separate and independent state. If the existence of the ordinance, while an act of Congress is pending, is to be considered as a motive for not passing that law, why this would be found to be a sufficient reason for preventing the passing of any laws. South Carolina, by keeping the shadow of an ordinance even before us, as she has it in her power to postpone it from time to time, would defeat our legislation forever. I would repeat that, under all the circumstances of the case, the condition of South Carolina is only one of the elements of a combination, the whole of which, together, constitutes a motive of action which renders it expedient to resort, during the present session of Congress, to some measure in order to quiet and tranquillize the country.

If there be any who want civil war—who want to see the blood of any portion of our countrymen spilt—I am not one of them. I wish to see war of no kind; but, above all, I do not desire to see a civil war. When war begins, whether civil or foreign, no human sight is competent to foresee when, or how, or where it is to terminate. But when a civil war shall be lighted up in the bosom of our own happy land, and armies are marching, and commanders are winning their victories, and fleets are in motion on our coast—tell me, if you can, tell me if any human being can tell its duration. God alone knows where such a war will end. In what state will be left our institutions? In what state our liberties? I want no war; above all, no war at home.

Sir, I repeat, that I think South Carolina has been rash, intemperate, and greatly in the wrong; but I do not want to disgrace her, nor any other member of this Union. No: I do not desire to see the lustre of one single star dimmed, of that glorious confederacy which constitutes our political sun; still less do I wish to see it blotted out, and its light obliterated forever. Has not the state of South Carolina been one of the members of this Union in “days that tried men’s souls?” Have not her ancestors fought along side our ancestors? Have we not, conjointly,

won together many a glorious battle? If we had to go into a civil war with such a state, how would it terminate? Whenever it should have terminated, what would be her condition? If she should ever return to the Union, what would be the condition of her feelings and affections—what the state of the heart of her people? She has been with us before, when her ancestors mingled in the throng of battle, and as I hope our posterity will mingle with hers, for ages and centuries to come, in the united defence of liberty, and for the honor and glory of the Union. I do not wish to see her degraded or defaced as a member of this confederacy.

In conclusion, allow me to entreat and implore each individual member of this body to bring into the consideration of this measure, which I have had the honor of proposing, the same love of country which, if I know myself, has actuated me; and the same desire of restoring harmony to the Union, which has prompted this effort. If we can forget for a moment—but that would be asking too much of human nature—if we could suffer, for one moment, party feelings and party causes—and, as I stand here before my God, I declare I have looked beyond those considerations, and regarded only the vast interests of this united people—I should hope that, under such feelings, and with such dispositions, we may advantageously proceed to the consideration of this bill, and heal, before they are yet bleeding, the wounds of our distracted country.

Mr. C. concluded with asking leave to introduce his bill.

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## ON THE COMPROMISE BILL OF 1832.

*In the Senate of the United States, February 25, 1833, in vindication of his bill, entitled "an act to modify the act of the 14th July, 1832, and all other acts imposing duties on imports."*

The bill to modify the tariff being under consideration—

Mr. Clay rose in reply to Mr. Webster, and said: being anxious, Mr. President, that this bill should pass, and pass this day, I will abridge as much as I can the observations which I am called upon to make. I have long, with pleasure and pride, co-operated in the public service with the senator from Massachusetts; and I have found him faithful, enlightened, and patriotic. I have not a particle of doubt as to the pure and elevated motives which actuate him. Under these circumstances, it gives me deep and lasting regret to find myself compelled to differ from him as to a measure involving vital interests, and perhaps the safety of the Union. On the other hand, I derive great consolation from finding myself on this occasion, in the midst of

friends with whom I have long acted, in peace and in war, and especially with the honorable senator from Maine, (Mr. Holmes,) with whom I had the happiness to unite in a memorable instance. It was in this very chamber, that senator presiding in the committee of the Senate, and I in the committee of twenty-four of the House of Representatives, on a Sabbath day, that the terms were adjusted, by which the compromise was effected of the Missouri question. Then the dark clouds that hung over our beloved country were dispersed; and now the thunders from others not less threatening, and which have been longer accumulating, will, I hope, roll over us harmless and without injury.

The senator from Massachusetts objects to the bill under consideration on various grounds. He argues that it imposes unjustifiable restraints on the power of future legislation; that it abandons the protective policy, and that the details of the bill are practically defective. He does not object to the gradual, but very inconsiderable, reduction of duties which is made prior to 1842. To that he could not object, because it is a species of prospective provision, as he admits, in conformity with numerous precedents on our statute book. He does not object so much to the state of the proposed law prior to 1842, during a period of nine years; but throwing himself forward to the termination of that period, he contends that Congress will then find itself under inconvenient shackles, imposed by our indiscretion. In the first place, I would remark, that the bill contains no obligatory pledges; it could make none; none are attempted. The power over the subject is in the constitution; put there by those who formed it, and liable to be taken out only by an amendment of the instrument. The next Congress, and every succeeding Congress, will undoubtedly have the power to repeal the law whenever they may think proper. Whether they will exercise it or not, will depend upon a sound discretion, applied to the state of the whole country, and estimating fairly the consequences of the repeal, both upon the general harmony and the common interests. Then the bill is founded in a spirit of compromise. Now, in all compromises there must be mutual concessions. The friends of free trade insist that duties should be laid in reference to revenue alone. The friends of American industry say that another, if not paramount, object in laying them, should be to diminish the consumption of foreign, and increase that of domestic products. On this point the parties divide, and between these two opposite opinions, a reconciliation is to be effected, if it can be accomplished. The bill assumes as a basis, adequate protection for nine years, and less beyond that term. The friends of protection say to their opponents, we are willing to take a lease of nine years, with the long chapter of accidents beyond that period, including the chance of war, the restoration of concord, and along with it, a conviction common to all, of the utility of protection; and in consideration of it, if, in 1842, none of these contingencies shall have been realized, we are willing



to submit, as long as Congress may think proper, to a maximum rate of twenty per cent., with the power of discrimination below it, cash duties, home valuations, and a liberal list of free articles, for the benefit of the manufacturing interest. To these conditions the opponents of protection are ready to accede. The measure is what it professes to be, a compromise; but it imposes and could impose no restriction upon the will or power of a future Congress. Doubtless great respect will be paid, as it ought to be paid, to the serious condition of the country that has prompted the passage of this bill. Any future Congress that might disturb this adjustment would act under a high responsibility, but it would be entirely within its competency to repeal, if it thought proper, the whole bill.

It is far from the object of those who support this bill, to abandon or surrender the policy of protecting American industry. Its protection or encouragement may be accomplished in various ways. 1st. By bounties, as far as they are within the constitutional power of Congress to offer them. 2d. By prohibitions, totally excluding the foreign rival article. 3d. By high duties, without regard to the aggregate amount of revenue which they produce. 4th. By discriminating duties so adjusted as to limit the revenue to the economical wants of government. And 5thly, By the admission of the raw material, and articles essential to manufactures, free of duty. To which may be added cash duties, home valuations, and the regulation of auctions. A perfect system of protection would comprehend most, if not all these modes of affording it. There might be, at this time, a prohibition of certain articles, (ardent spirits and coarse cottons, for example,) to public advantage. If there were not inveterate prejudices and conflicting opinions prevailing, (and what statesman can totally disregard impediments of that character?) such a compound system might be established.

Now, Mr. President, before the assertion is made that the bill surrenders the protective policy, gentlemen should understand perfectly what it does not, as well as what it does propose. It impairs no power of Congress over the whole subject; it contains no promise or pledge whatever, express or implied, as to bounties, prohibitions, or auctions; it does not touch the power of Congress in regard to them, and Congress is perfectly free to exercise that power at any time; it expressly recognizes discriminating duties within a prescribed limit; it provides for cash duties and home valuations; and it secures a free list, embracing numerous articles, some of high importance to the manufacturing arts. Of all the modes of protection which I have enumerated, it affects only the third; that is to say, the imposition of high duties, producing a revenue beyond the wants of government. The senator from Massachusetts contends that the policy of protection was settled in 1816, and that it has ever since been maintained. Sir, it was settled long before 1816. It is coeval with the present constitution, and it will continue, under some

of its various aspects, during the existence of the government. No nation can exist, no nation, perhaps, ever existed, without protection, in some form, and to some extent, being applied to its own industry. The direct and necessary consequence of abandoning the protection of its own industry, would be to subject it to the restrictions and prohibitions of foreign powers; and no nation, for any length of time, can endure an alien legislation, in which it has no will. The discontents which prevail, and the safety of the republic, may require the modification of a specific mode of protection, but it must be preserved in some other more acceptable shape.

All that was settled in 1816, in 1824, and in 1828, was that protection should be afforded *by high duties, without regard to the amount of the revenue which they might yield*. During that whole period, we had a public debt which absorbed all the surpluses beyond the ordinary wants of government. Between 1816 and 1824, the revenue was liable to the great fluctuations, vibrating between the extremes of about nineteen and thirty-six millions of dollars. If there were more revenue, more debt was paid; if less, a smaller amount was reimbursed. Such was sometimes the deficiency of the revenue, that it became necessary, to the ordinary expenses of government, to trench upon the ten millions annually set apart, as a sinking fund, to extinguish the public debt. If the public debt remained undischarged, or we had any other proper and practical mode of appropriating the surplus revenue, the form of protection, by high duties, might be continued without public detriment. It is the payment of the public debt, then, and the arrest of internal improvements by the exercise of the veto, that unsettle that specific form of protection. Nobody supposes, or proposes, that we should continue to levy by means of high duties, a large annual surplus, of which no practical use can be made, for the sake of the incidental protection which they afford. The secretary of the treasury estimates that surplus on the existing scale of duties, and with the other sources of revenue, at six millions annually. An annual accumulation, at that rate, would, in a few years, bring into the treasury the whole currency of the country, to lie there inactive and dormant.

This view of the condition of the country has impressed every public man with the necessity of some modification of the principles of protection, so far as it depends upon high duties. The senator from Massachusetts feels it; and hence, in the resolutions which he submitted, he proposes to reduce the duties, so as to limit the amount of the revenue to the wants of the government. With him revenue is the principal, protection the subordinate object. If protection cannot be enjoyed after such a reduction of duties as he thinks ought to be made, it is not to be extended. He says specific duties, and the power of discrimination, are preserved by his resolutions. So they may be under

the operation of the bill. The only difference between the two schemes is, that the bill, in the maximum which it provides, suggests a certain limit; whilst his resolutions lay down none. Below that maximum, the principle of discrimination and specific duties may be applied. The senator from Pennsylvania, (Mr. Dallas,) who, equally with the senator from Massachusetts, is opposed to this bill, would have agreed to the bill if it had fixed thirty instead of twenty per centum; and he would have dispensed with home valuation, and come down to the revenue standard in five or six years. Now, Mr. President, I prefer, and I think the manufacturing interest will prefer, nine years of adequate protection, home valuations, and twenty per cent. to the plan of the senator from Pennsylvania.

Mr. President, I want to be perfectly understood as to the motives which have prompted me to offer this measure. I repeat what I said on the introduction of it, that they are, first, to preserve the manufacturing interest, and, secondly, to quiet the country. I believe the American system to be in the greatest danger; and I believe it can be placed on a better and safer foundation at this session, than at the next. I heard with surprise, my friend from Massachusetts say that nothing had occurred within the last six months to increase its hazard. I entreat him to review that opinion. Is it correct? Is the issue of numerous elections, including that of the highest officer of the government, nothing? Is the explicit recommendation of that officer, in his message at the opening of the session, sustained, as he is, by a recent triumphant election, nothing? Is his declaration in his proclamation, that the burdens of the south ought to be relieved, nothing? Is the introduction of a bill into the House of Representatives during this session, sanctioned by the head of the treasury and the administration, prostrating the greater part of the manufactures of the country, nothing? Are the increasing discontents nothing? Is the tendency of recent events to unite the whole south nothing? What have we not witnessed in this chamber? Friends of the administration bursting all the ties which seemed indissolubly to unite them to its chief, and, with few exceptions south of the Potomac, opposing, and vehemently opposing, a favorite measure of that administration, which three short months ago they contributed to establish! Let us not deceive ourselves. Now is the time to adjust the question in a manner satisfactory to both parties. Put it off until the next session, and the alternative may, and probably then would be a speedy and ruinous reduction of the tariff, or a civil war with the entire south.

It is well known that the majority of the dominant party is adverse to the tariff. There are many honorable exceptions, the senator from New Jersey, (Mr. Dickerson,) among them. But for the exertions of the other party, the tariff would have been long since sacrificed. Now let us look at the composition of the two branches of Congress at the next session. In this body

we lose three friends of the protective policy, without being sure of gaining one. Here, judging from present appearances, we shall at the next session, be in the minority. In the House it is notorious that there is a considerable accession to the number of the dominant party. How, then, I ask, is the system to be sustained against numbers, against the whole weight of the administration, against the united south, and against the increased pending danger of civil war? There is, indeed, one contingency that might save it, but that is too uncertain to rely upon. A certain class of northern politicians, professing friendship to the tariff, have been charged with being secretly inimical to it, for political purposes. They may change their ground, and come out open and undisguised supporters of the system. They may even find in the measure which I have brought forward a motive for their conversion. Sir, I shall rejoice in it, from whatever cause it may proceed. And, if they can give greater strength and durability to the system, and at the same time quiet the discontents of its opponents, I shall rejoice still more. They shall not find me disposed to abandon it, because it has drawn succor from an unexpected quarter.

No, Mr. President, it is not destruction but preservation of the system at which we aim. If dangers now assail it, we have not created them. I have sustained it upon the strongest and clearest convictions of its expediency. They are entirely unaltered. Had others, who avow attachment to it, supported it with equal zeal and straight-forwardness, it would be now free from embarrassment; but with them it has been a secondary interest. I utter no complaints—I make no reproaches. I wish only to defend myself now, as heretofore, against unjust assaults. I have been represented as the father of this system, and I am charged with an unnatural abandonment of my own offspring. I have never arrogated to myself any such intimate relation to it. I have, indeed, cherished it with parental fondness, and my affection is undiminished. But in what condition do I find this child? It is in the hands of the Philistines, who would strangle it. I fly to its rescue, to snatch it from their custody, and to place it on a bed of security and repose for nine years, where it may grow and strengthen, and become acceptable to the whole people. I behold a torch about being applied to a favorite edifice, and I would save it, if possible, before it is wrapt in flames, or at least preserve the precious furniture which it contains. I wish to see the tariff separated from the politics of the country, that business men may go to work in security, with some prospect of stability in our laws, and without every thing being staked on the issue of elections as it were on the hazards of the die.

And the other leading object which has prompted the introduction of this measure, the tranquillizing of the country, is no less important. All wise human legislation must consult in some degree the passions, and prejudices, and feelings, as well

as the interests of the people. It would be vain and foolish to proceed at all times, and under all circumstances, upon the notion of absolute certainty in any system, or infallibility in any dogma, and to push these out without regard to any consequences.— With us, who entertain the opinion that Congress is constitutionally invested with power to protect domestic industry, it is a question of mere expediency as to the form, the degree and the time that the protection shall be afforded. In weighing all the considerations which should control and regulate the exercise of that power, we ought not to overlook what is due to those who honestly entertain opposite opinions to large masses of the community, and to deep, long cherished and growing prejudices. Perceiving, ourselves, no constitutional impediment, we have less difficulty in accommodating ourselves to the sense of the people of the United States upon this interesting subject. I do believe that a majority of them is in favor of this policy; but I am induced to believe this almost against evidence. Two states in New-England, which have been in favor of the system, have recently come out against it. Other states of the north and east have shown a remarkable indifference to its preservation. If, indeed, they have wished to preserve it, they have nevertheless placed the powers of government in hands which ordinary information must have assured them were rather a hazardous depository. With us in the west, although we are not without some direct, and considerable indirect, interest in the system, we have supported it more upon national than sectional grounds.

Meantime, the opposition of a large and respectable section of the Union, stimulated by political success, has increased, and is increasing. Discontents are multiplying and assuming new and dangerous aspects. They have been cherished by the course and hopes inspired during this administration, which, at the very moment that it threatens and recommends the use of the power of the whole Union, proclaims aloud the injustice of the system which it would enforce. These discontents are not limited to those who maintain the extravagant theory of nullification; they are not confined to one state; they are co-extensive with the entire south, and extend even to northern states. It has been intimated, by the Senator from Massachusetts, that, if we legislate at this session on the tariff, we would seem to legislate under the influence of a panic. I believe, Mr. President, I am not more sensible to danger of any kind than my fellow men are generally. It perhaps requires as much moral courage to legislate under the imputation of a panic, as to refrain from it lest such an imputation should be made. But he who regards the present question as being limited to South Carolina alone, takes a view of it much too contracted. There is a sympathy of feeling and interest throughout the whole south. Other southern states may differ from that as to the remedy to be now used, but all agree (great as in my humble

judgment is their error,) in the substantial justice of the cause. Can there be a doubt that those who think in common will sooner or later act in concert? Events are on the wing, and hastening this co-operation. Since the commencement of this session, the most powerful southern member of the Union has taken a measure which cannot fail to lead to important consequences. She has deputed one of her most distinguished citizens to request a suspension of measures of resistance. No attentive observer can doubt that the suspension will be made. Well, sir, suppose it takes place, and Congress should fail at the next session to afford the redress which will be solicited, what course would every principle of honor, and every consideration of the interests of Virginia, as she understands them, exact from her? Would she not make common cause with South Carolina? and, if she did, would not the entire south eventually become parties to the contest? The rest of the Union might put down the south, and reduce it to submission; but, to say nothing of the uncertainty and hazards of all war, is that a desirable state of things?—Ought it not to be avoided if it can be honorably prevented? I am not one of those who think that we must rely exclusively upon moral power, and never resort to physical force. I know too well the frailties and follies of man, in his collective as well as individual character, to reject, in all possible cases, the employment of force; but I do think that, when resorted to, especially among the members of a confederacy, it should manifestly appear to be the only remaining appeal.

But suppose the present Congress terminates without any adjustment of the tariff,—let us see in what condition its friends will find themselves at the next session. South Carolina will have postponed the execution of the law passed to carry into effect her ordinance until the end of that session. All will be quiet in the south for the present. The President, in his opening message, will urge that justice, as he terms it, be done to the south, and that the burdens imposed upon it by the tariff be removed. The whole weight of the administration, the united south, and majorities of the dominant party in both branches of Congress, will be found in active co-operation. Will the gentleman from Massachusetts tell me how we are to save the tariff against this united and irresistible force? They will accuse us of indifference to the preservation of the Union, and of being willing to expose the country to the dangers of civil war. The fact of South Carolina postponing her ordinance, at the instance of Virginia, and once more appealing to the justice of Congress, will be pressed with great emphasis and effect. It does appear to me impossible that we can prevent a most injurious modification of the tariff at the next session, and that this is the favorable moment for an equitable arrangement of it. I have been subjected to animadversion for the admission of the fact, that, at the next session, our opponents will be stronger, and

the friends of the American system weaker than they are in this Congress. But is it not so? And is it not the duty of every man who aspires to be a statesman to look at naked facts as they really are? Must he suppress them? Ought he, like children, to throw the counterpane over his eyes, and persuade himself that he is secure from danger? Are not our opponents as well informed as we are about their own strength?

If we adjourn, without any permanent settlement of the tariff, in what painful suspense and terrible uncertainty shall we not leave the manufacturers and business men of the country? All eyes will be turned, with trembling and fear, to the next session. Operations will be circumscribed, and new enterprizes checked, or, if otherwise, ruin and bankruptcy may be the consequence. I believe, sir, this measure, which offers a reasonable guarantee for permanence and stability, will be hailed by practical men with pleasure. The political manufacturers may be against it, but it will command the approbation of a large majority of the business manufacturers of the country.

But the objections of the honorable Senator from Massachusetts are principally directed to the period beyond 1842. During the intermediate time, there is every reason to hope and believe that the bill secures adequate protection. All my information assures me of this; and it is demonstrated by the fact, that, if the measure of protection, secured prior to the 31st December, 1841, were permanent, or if the bill were even silent beyond that period, it would command the cordial and unanimous concurrence of the friends of the policy. What then divides, what alarms us? It is what *may possibly* be the state of things in the year one thousand eight hundred and forty-two, or subsequently! Now, sir, even if that should be as bad as the most vivid imagination or the most eloquent tongue could depict it, if we have intermediate safety and security, it does not seem to me wise to rush upon certain and present evils, because of those which, admitting their possibility, are very remote and contingent. What! shall we not extinguish the flame which is bursting through the roof that covers us, because, at some future and distant day, we may be again threatened with conflagration?

I do not admit that this bill abandons, or fails by its provisions to secure reasonable protection beyond 1842. I cannot know, I pretend not to know, what will then be the actual condition of this country, and of the manufacturing arts, and their relative condition to the rest of the world. I would as soon confide in the forecast of the honorable Senator from Massachusetts, as in that of any other man in this Senate, or in this country: but he, nor any one else, can tell what that condition will then be. The degree of protection which will be required for domestic industry beyond 1842, depends upon the reduction of wages, the accumulation of capital, the improvement in skill, the protection of machinery, and the cheapening of the price, at home, of essential articles, such as fuel, iron, &c. I do not think that the honora-



ble Senator can throw himself forward to 1842, and tell us what, in all these particulars, will be the state of this country, and its relative state to other countries. We know that, in all human probability, our numbers will be increased by an addition of one-third, at least, to their present amount, and that may materially reduce wages. We have reason to believe that our capital will be augmented, our skill improved; and we know that great progress has been made, and is making, in machinery. There is a constant tendency to decrease in the price of iron and coal. The opening of new mines, and new channels of communication, must continue to lower it. The successful introduction of the process of coking would have great effect. The price of these articles, one of the most opulent and intelligent manufacturing houses in this country assures me, is a principal cause of the present necessity of protection to the cotton interest; and that house is strongly inclined to think that 20 per cent. with the other advantages secured in this bill, may do beyond 1842. Then, sir, what effect may not convulsions and revolutions in Europe, if any should arise, produce? I am far from desiring them, that our country may profit by their occurrence. Her greatness and glory rest, I hope, upon a more solid and more generous basis. But we cannot shut our eyes to the fact, that our greatest manufacturing, as well as commercial competitor, is undergoing a momentous political experiment, the issue of which is far from being absolutely certain. Who can raise the veil of the succeeding nine years, and show what, at their termination, will be the degree of competition which Great Britain can exercise towards us in the manufacturing arts?

Suppose, in the progress of gradual descent towards the revenue standard, for which this bill provides, it should, some years hence, become evident that further protection, beyond 1842, than that which it contemplates, may be necessary, can it be doubted that, in some form or other, it will be applied? Our misfortune has been, and yet is, that the public mind has been constantly kept in a state of feverish excitement in respect to this system of policy. Conventions, elections, Congress, the public press, have been for years all acting upon the tariff, and the tariff acting upon them all. Prejudices have been excited, passions kindled, and mutual irritations carried to the highest pitch of exasperation, insomuch that good feelings have been almost extinguished, and the voice of reason and experience silenced, among the members of the confederacy. Let us separate the tariff from the agitating politics of the country, place it upon a stable and firm foundation, and allow our enterprising countrymen to demonstrate to the whole Union, by their skillful and successful labors, the inappreciable value of the arts. If they can have, what they have never yet enjoyed, some years of repose and tranquillity, they will make, silently, more converts to the policy, than would be made during a long period of anxious struggle and boisterous contention. Above all, I count upon the good effects

resulting from a restoration of the harmony of this divided people, upon their good sense and their love of justice. Who can doubt, that when passions have subsided, and reason has resumed her empire, that there will be a disposition throughout the whole Union to render ample justice to all its parts? Who will believe that any section of this great confederacy would look with indifference to the prostration of the interests of another section, by distant and selfish foreign nations, regardless alike of the welfare of us all? No, sir; I have no fears beyond 1842. The people of the United States are brethren, made to love and respect each other. Momentary causes may seem to alienate them, but, like family differences, they will terminate in a closer and more affectionate union than ever. And how much more estimable will be a system of protection, based on common conviction and common consent, and planted in the bosoms of all, than one wrenched by power from reluctant and protesting weakness?

That such a system will be adopted, if it should be necessary for the period of time subsequent to 1842, I will not doubt. But, in the scheme which I originally proposed, I did not rely exclusively, great as my reliance is, upon the operation of fraternal feelings, the return of reason, and a sense of justice. The scheme contained an appeal to the interests of the south. According to it, unmanufactured cotton was to be a free article after 1842. Gentlemen from that quarter have again and again asserted that they were indifferent to the duty of three cents per pound on cotton, and that they feared no foreign competition. I have thought otherwise; but I was willing, by way of experiment, to take them at their word; not that I was opposed to the protection of cotton, but believing that a few cargoes of foreign cotton introduced into our northern ports, free of duty, would hasten our southern friends to come here and ask that protection for their great staple, which is wanted in other sections for their interests. That feature in the scheme was stricken out in the select committee, but not by the consent of my friend from Delaware (Mr. Clayton) or myself. Still, after 1842, the south may want protection for sugar, for tobacco, for Virginia coal, perhaps for cotton and other articles, whilst other quarters may need it for wool, woollens, iron and cotton fabrics; and these mutual wants, if they should exist, will lead, I hope, to some amicable adjustment of a tariff for that distant period, satisfactory to all. The theory of protection supposes, too, that, after a certain time, the protected arts will have acquired such strength and perfection as will enable them subsequently, unaided, to stand up against foreign competition. If, as I have no doubt, this should prove to be correct, it will, on the arrival of 1842, encourage all parts of the Union to consent to the continuance of longer protection to the few articles which may then require it.

The bill before us strongly recommends itself by its equity and impartiality. It favors no one interest, and no one state, by an unjust sacrifice of others. It deals equally by all. Its basis

is the act of July last. That act was passed after careful and thorough investigation, and long deliberation, continued through several months. Although it may not have been perfect in its adjustment of the proper measure of protection to each article which was supposed to merit it, it is not likely that, even with the same length of time before us, we could make one more perfect. Assuming the justness of that act, the bill preserves the respective propositions for which the act provides, and subjects them all to the same equal but moderate reduction, spread over the long space of nine years. The Senator from Massachusetts contends that a great part of the value of all protection is given up by dispensing with specific duties and the principle of discrimination. But much the most valuable articles of our domestic manufactures (cotton and woollens, for example) have never enjoyed the advantage of specific duties. They have always been liable to ad valorem duties, with a very limited application of the minimum principle. The bill does not, however, even after 1842, surrender either mode of laying duties. Discriminations are expressly recognised below the maximum, and specific duties may also be imposed, provided they do not exceed it.

The honorable Senator also contends that the bill is imperfect, and that the execution of it will be impracticable. He asks, how is the excess above 20 per cent. to be ascertained on coarse and printed cottons, liable to minimums of 30 and 35 cents, and subject to a duty of 25 per cent. ad valorem; and how is it to be estimated in the case of specific duties? Sir, it is very probable that the bill is not perfect, but I do not believe that there is any thing impracticable in its execution. Much will, however, depend upon the head of the treasury department. In the instance of the cotton minimums, the statute having, by way of exception to the general ad valorem rule, declared, in certain cases, how the value shall be estimated, that statutory value ought to govern; and consequently the 20 per cent. should be exclusively deducted from the 25 per cent. being the rate of duties to which cottons generally are liable; and the biennial tenths should be subtracted from the excess of five per cent. With regard to specific duties, it will, perhaps, be competent to the Secretary of the Treasury, in the execution of the law, for the sake of certainty, to adopt some average value, founded upon importations of a previous year. But if the value of each cargo, and every part of it, is to be ascertained, it would be no more than what now is the operation in the case of woollens, silks, cottons above 30 and 35 cents, and a variety of other articles; and consequently there would be no impracticability in the law.

To all defects, however, real or imaginary, which may be supposed will arise in the execution of the principle of the bill, I oppose one conclusive, and, I hope, satisfactory answer. Congress will be in session one whole month before the commencement of the law; and if, in the mean time, omissions calling for further legislation shall be discovered, there will be more time

then than we have now to supply them. Let us, on this occasion of compromise, pursue the example of our fathers, who, under the influence of the same spirit, in the adoption of the constitution of the United States, determined to ratify it, and go for amendments afterwards.

To the argument of the senator from Massachusetts, that this interest, and that and the other cannot be sustained under the protection beyond 1842, I repeat the answer that no one can now tell what may then be necessary. That period will provide for itself. But I was surprised to hear my friend singling out iron as an article that would be most injuriously affected by the operation of this bill. If I am not greatly mistaken in my recollection, he opposed and voted against the act of 1824, because of the high duty imposed on iron. But for that duty, (and perhaps the duty on hemp), which he then considered threw an unreasonable burden upon the navigation of the country, he would have supported that act. Of all the articles to which protecting duties are applied, iron, and the manufactures of iron, enjoy the highest protection. During the term of nine years, the deductions from the duty are not such as seriously to impair those great interests, unless all my information deceives me; and beyond that period the remedy has been already indicated. Let me suppose that the anticipations which I form upon the restoration of concord and confidence shall be all falsified; that neither the sense of fraternal affection nor common justice, nor even common interests, will lead to an amicable adjustment of the tariff beyond 1842. Let me suppose that period has arrived, and that the provisions of the bill shall be interpreted as an obligatory pledge upon the Congress of that day; and let me suppose also that a greater amount of protection than the bill provides is absolutely necessary to some interests, what is to be done? Regarded as a pledge, it does not bind Congress forever to adhere to the specific rate of duty contained in the bill. The most, in that view, that it exacts, is to make a fair experiment. If, after such experiment, it should be demonstrated that, under such an arrangement of the tariff, the interests of large portions of the Union would be sacrificed, and they exposed to ruin, Congress will be competent to apply some remedy that will be effectual; and I hope and believe that, in such a contingency, some will be devised that may preserve the harmony and perpetuate the blessings of the Union.

It has been alledged that there will be an augmentation, instead of a diminution of revenue under the operation of this bill. I feel quite confident of the reverse; but it is sufficient to say that both contingencies are carefully provided for in the bill, without affecting the protected articles.

The gentleman from Massachusetts dislikes the measure, because it commands the concurrence of those who have been hitherto opposed, in regard to the tariff; and is approved by the gentleman from South Carolina, (Mr. Calhoun) as well as by

myself. Why, sir, the gentleman has told us that he is not opposed to any compromise. Will he be pleased to say how any compromise can be effected, without a concurrence between those who had been previously divided, and taking some medium between the two extremes? The wider the division may have been, so much the better for the compromise, which ought to be judged of by its nature and by its terms, and not solely by those who happen to vote for it. It is an adjustment to which both the great interests in this country may accede without either being dishonored. The triumph of neither is complete. Each, for the sake of peace, harmony, and union, makes some concessions. The south has contended that every vestige of protection should be eradicated from the statute book, and the revenue standard forthwith adopted. In assenting to this bill, it waives that pretension—yields to reasonable protection for nine years; and consents, in consideration of the maximum of twenty per cent. to be subsequently applied, to discriminations below it, cash duties, home valuations, and a long list of free articles. The north and west have contended for the practical application of the principle of protection, regulated by no other limit than the necessary wants of the country. If they accede to this adjustment, they agree, in consideration of the stability and certainty which nine years' duration of a favorite system of policy affords, and of the other advantages which have been enumerated, to come down in 1842 to a limit not exceeding twenty per cent. Both parties, animated by a desire to avert the evils which might flow from carrying out into all their consequences the cherished system of either, have met upon common ground, made mutual and friendly concessions, and, I trust, and sincerely believe, that neither will have, hereafter, occasion to regret, as neither can justly reproach the other with what may be now done.

This, or some other measure of conciliation, is now more than ever necessary, since the passage, through the senate, of the enforcing bill. To that bill, if I had been present, on the final vote, I should have given my assent, although with great reluctance. I believe this government not only possessed of the constitutional power, but to be bound by every consideration, to maintain the authority of the laws. But I deeply regretted the necessity which seemed to me to require the passage of such a bill. And I was far from being without serious apprehensions as to the consequences to which it might lead. I felt no new born zeal in favor of the present administration, of which I now think as I have always thought. I could not vote against the measure; I would not speak in its behalf. I thought it most proper in me to leave to the friends of the administration and to others, who might feel themselves particularly called upon, to defend and sustain a strong measure of the administration. With respect to the series of acts to which the executive has resorted, in relation to our southern disturbance, this is not a fit occasion to

enter upon a full consideration of them ; but I will briefly say, that, although the proclamation is a paper of uncommon ability and eloquence, doing great credit, as a composition, to him who prepared it, and to him who signed it, I think it contains some ultra doctrines, which no party in this country had ventured to assert. With these are mixed up many sound principles and just views of our political systems. If it is to be judged by its effects upon those to whom it was more immediately addressed, it must be admitted to have been ill timed and unfortunate. Instead of allaying the excitement which prevailed, it increased the exasperation in the infected district, and afforded new and unnecessary causes of discontent and dissatisfaction in the south generally. The message, subsequently transmitted to Congress, communicating the proceedings of South Carolina, and calling for countervailing enactments, was characterized with more prudence and moderation. And, if this unhappy contest is to continue, I sincerely hope that the future conduct of the administration may be governed by wise and cautious counsels, and a parental forbearance. But when the highest degree of animosity exists ; when both parties, however unequal, have arrayed themselves for the conflict, who can tell when, by the indiscretion of subordinates, or other unforeseen causes, the bloody struggle may commence ? In the midst of magazines, who knows when the fatal spark may produce a terrible explosion ? And the battle once begun where is its limit ? What latitude will circumscribe its rage ? Who is to command our armies ? When, and where, and how is the war to cease ? In what condition will the peace leave the American system, the American Union, and, what is more than all, American liberty ? I cannot profess to have a confidence, which I have not, in this administration, but if I had all confidence in it, I should still wish to pause, and, if possible, by any honorable adjustment, to prevent awful consequences, the extent of which no human wisdom can foresee.

It appears to me then, Mr. President, that we ought not to content ourselves with passing the enforcing bill only. Both that and the bill of peace seem to me to be required for the good of our country. The first will satisfy all who love order and law, and disapprove the inadmissible doctrine of nullification. The last will soothe those who love peace and concord, harmony and union. One demonstrates the power and the disposition to vindicate the authority and supremacy of the laws of the Union ; the other offers that which, if it be accepted in the fraternal spirit in which it is tendered, will supersede the necessity of the employment of all force.

There are some who say, let the tariff go down ; let our manufactures be prostrated, if such be the pleasure, at another session, of those to whose hands the government of this country is confided : let bankruptcy and ruin be spread over the land : and let resistance to the laws, at all hazards, be subdued. Sir, they

take counsel from their passions. They anticipate a terrible reaction from the downfall of the tariff, which would ultimately re-establish it upon a firmer basis than ever. But it is these very agitations, these mutual irritations between brethren of the same family, it is the individual distress and general ruin that would necessarily follow the overthrow of the tariff, that ought, if possible to be prevented. Besides are we certain of this reaction? Have we not been disappointed in it as to other measures heretofore? But suppose, after a long and embittered struggle, it should come, in what relative condition would it find the parts of this confederacy? In what state our ruined manufactures? When they should be laid low, who, amidst the fragments of the general wreck, scattered over the face of the land, would have courage to engage in fresh enterprises, under a new pledge of the violated faith of the government? If we adjourn, without passing this bill, having entrusted the executive with vast powers to maintain the laws, should he be able by the next session to put down all opposition to them, will he not, as a necessary consequence of success, have more power than ever to put down the tariff also? Has he not said that the south is oppressed, and its burdens ought to be relieved? And will he not feel himself bound, after he shall have triumphed, if triumph he may in a civil war, to appease the discontents of the south by a modification of the tariff, in conformity with its wishes and demands? No, sir; no, sir; let us save the country from the most dreadful of all calamities, and let us save its industry too, from threatened destruction. Statesmen should regulate their conduct and adapt their measures to the exigencies of the times in which they live. They cannot, indeed, transcend the limits of the constitutional rule; but with respect to those systems of policy which fall within its scope, they should arrange them according to the interests, the wants, and the prejudices of the people. Two great dangers threaten the public safety. The true patriot will not stop to inquire how they have been brought about, but will fly to the deliverance of his country. The difference between the friends and the foes of the compromise, under consideration, is, that they would, in the enforcing act, send forth alone a flaming sword. We would send out that also, but along with it the olive branch, as a messenger of peace. They cry out, the law! the law! the law! Power! power! power! We, too, reverence the law, and bow to the supremacy of its obligation; but we are in favor of the law executed in mildness, and of power tempered with mercy. They, as we think, would hazard a civil commotion, beginning in South Carolina and extending God only knows where. While we would vindicate the authority of the Federal government, we are for peace, if possible, union and liberty. We want no war, above all, no civil war, no family strife. We want to see no sacked cities, no



desolated fields, no smoking ruins, no streams of American blood shed by American arms !

I have been accused of ambition in presenting this measure. Ambition ! inordinate ambition ! If I had thought of myself only I should have never brought it forward. I know well the perils to which I expose myself ; the risk of alienating faithful and valued friends, with but little prospect of making new ones, if any new ones could compensate for the loss of those whom we have long tried and loved ; and the honest misconceptions both of friends and foes. Ambition ! If I had listened to its soft and seducing whispers ; if I had yielded myself to the dictates of a cold, calculating, and prudential policy, I would have stood still and unmoved. I might even have silently gazed on the raging storm, enjoyed its loudest thunders, and left those who are charged with the care of the vessel of State, to conduct it as they could. I have been heretofore often unjustly accused of ambition. Low, grovelling souls, who are utterly incapable of elevating themselves to the higher and nobler duties of pure patriotism—beings, who, forever keeping their own selfish aims in view, decide all public measures by their presumed influence on their aggrandizement, judge me by the venal rule which they prescribe to themselves. I have given to the winds these false accusations, as I consign that which now impeaches my motives. I have no desire for office, not even the highest. The most exalted is but a prison, in which the incarcerated incumbent daily receives his cold heartless visitants, marks his weary hours, and is cut off from the practical enjoyment of all the blessings of genuine freedom. I am no candidate for any office in the gift of the people of these states, united or separated ; I never wish, never expect to be. Pass this bill, tranquillize the country, restore confidence and affection in the Union, and I am willing to go home to Ashland, and renounce public service forever. I should there find, in its groves, under its shades, on its lawns, amidst my flocks and herds, in the bosom of my family, sincerity and truth, attachment and fidelity, and gratitude, which I have not always found in the walks of public life——Yes, I have ambition, but it is the ambition of being the humble instrument, in the hands of Providence, to reconcile a divided people, once more to revive concord and harmony in a distracted land—the pleasing ambition of contemplating the glorious spectacle of a free, united, prosperous, and fraternal people !

## ON THE INDIAN TRIBES.

*In the Senate—February 4.*

Mr. Clay addressed the chair. He held in his hands, and begged leave to present to the Senate, certain resolutions and a memorial, to the Senate and House of Representatives of the U. States, of a council met at Running Waters, consisting of a portion of the Cherokee Indians. The Cherokees (said Mr. C.) have a country—if, indeed, it can be any longer called their country—which is comprised within the limits of Georgia, Alabama, Tennessee and North Carolina. They have a population which is variously estimated, but which, according to the best information which I possess, amounts to about fifteen thousand souls. Of this population, a portion, believed to be much the greater part, amounting, as is estimated, to between nine and ten thousand souls, reside within the limits of the state of Georgia. The Senate was well aware, Mr. C. said, that for several years past, it had been the policy of the general government to transfer the Indians to the west of the Mississippi river, and that a portion of the Cherokees have already availed themselves of this policy of the government, and emigrated beyond the Mississippi. Of those who remain, a portion—a respectable, but, also, an inconsiderable portion—are desirous to emigrate to the west, and a much larger portion desire to remain on their lands, and lay their bones where rest those of their ancestors. The papers (said Mr. C.) which I now present, emanate from the minor portion of the Cherokees; from those who are in favor of emigration. They present a case which appeals strongly to the sympathies of Congress. They say that it is impossible for them to continue to live under laws which they do not understand, passed by authority in which they have no share, promulgated in language of which nothing is known to the greater portion of them, and establishing rules for their government entirely unadapted to their nature, education and habits. They say that destruction is hanging over them if they remain; that, their right of self-government being destroyed, though they are sensible of all the privations and hardships and sufferings of banishment from their native homes, they prefer exile, with liberty, to residence in their homes with slavery. They implore, therefore, the intervention of the general government, to provide for their removal west of the Mississippi, and to establish guarantees, never hereafter to be violated, of the possession of the lands to be acquired by them west of the Mississippi, and of the perpetual right of self-government. This was the object of the resolutions and petition, which, Mr. C. said, he was about to offer to the Senate.

But (said Mr. C.) I have thought that this occasion was one which called upon me to express the opinions and sentiments

which I hold in relation to this entire subject, as respects *not* only the emigrating Indians, but those, also, who are desirous to remain at home; in short, to express, in concise terms, my views of the relations, between the Indian tribes, and the people of the United States, the rights of both parties, and the duties of this government in regard to them.

The rights of the Indians, Mr. C. said, were to be ascertained, in the first, place, by the solemn stipulations of numerous treaties made with them by the United States. It was not his purpose to call the attention of the Senate to all the treaties which have been made with Indian tribes bearing on this particular topic: but he felt constrained to ask the attention of the Senate to some portions of those treaties which have been made with the Cherokees, and to the memorable treaty of Greenville, which had terminated the war that previously thereto, for many years, raged between the United States and the north western Indian tribes. He found, upon consulting the collection of Indian treaties in his hand, that, within the last half century, fourteen different treaties had been concluded with the Cherokees, the first of which bore date in the year 1775, and some one or more of which had been concluded under every administration of the general government, from the beginning of it to the present time, except the present administration, and that which immediately preceded it. The treaty of Hopewell, the first in the series, was concluded in 1775, in the third article of which "the said Indians, for themselves and their respective tribes and towns, do acknowledge all the Cherokees to be under the protection of the United States of America, *and of no other sovereign whatsoever.*" The 5th article of the same treaty provides that "If any citizen of the United States, or other person, not being an Indian, shall attempt to settle on any of the lands westward or southward of the said boundary, which are hereby allotted to the Indians for their hunting grounds, or, having already settled, and will not remove from the same within six months after the ratification of this treaty, such person shall forfeit the protection of the United States, and the Indians may punish him or not, as they please: provided, nevertheless, that this article shall not extend to the people settled between the fork of French Broad and Holston rivers," &c.

The next treaty in the series, which was concluded after the establishment of the government of the United States, under the auspices of the father of his country, was in the year 1791, on the banks of the Holston, and contains the following provision: "Art. 7. The United States solemnly guaranty to the Cherokee nation all their lands not hereby ceded." This, Mr. C. said, was not an ordinary assurance of protection, &c., but *a solemn guaranty* of the rights of the Cherokees to the lands in question. The next treaty to which he would call the attention of the Senate, was concluded in 1794, also, under the auspices of General Washington, and declares as follows: "The undersigned, Henry

Knox, secretary for the department of war, being authorized thereto by the President of the United States, in behalf of the said United States, and the undersigned chiefs and warriors, in their own names, and in behalf of the whole Cherokee nation, are desirous of re-establishing peace and friendship between the said parties in a permanent manner, do hereby declare, that the said treaty of Holston is, to all intents and purposes, in full force and binding upon the said parties, as well in respect to the boundaries therein mentioned, as in all other respects whatever." This treaty, it is seen, *renews* the solemn guaranty contained in the preceding treaty, and declares it to be binding and obligatory upon the parties, in all respects whatever.

Again; in another treaty, concluded in 1798, under the second Chief Magistrate of the United States, we find the following stipulations: "Art. 2. The treaties subsisting between the present contracting parties, are acknowledged to be of full and operating force; together with the construction and usage under their respective articles, and so to continue." "Art. 3. The limits and boundaries of the Cherokee nation, as stipulated and marked by the existing treaties between the parties, shall be and remain the same, where not altered by the present treaty."

There were other provisions, in other treaties, to which, if he did not intend to take up as little time as possible of the Senate, he might advantageously call their attention. He would, however, pass on to one of the last treaties with the Cherokees, which was concluded in the year 1817. That treaty recognized the difference existing between the two portions of the Cherokees, one of which was desirous to remain at home and prosecute the good work of civilization, in which they had made some progress, and the other portion was desirous to go beyond the Mississippi. In that treaty, the fifth article, after several other stipulations, concludes as follows: "And it is further stipulated, that the treaties heretofore between the Cherokee nation and the United States are to continue in full force with both parts of the nation, and both parts thereof entitled to all the privileges and immunities which the old nation enjoyed under the aforesaid treaties; the United States reserving the right of establishing factories, a military post, and roads within the boundaries above defined." And to this treaty, thus emphatically renewing the recognition of the rights of the Indians, is signed the name, as one of the commissioners of the United States who negotiated it, of the present Chief Magistrate of the United States.

These were the stipulations in treaties with the Cherokee nation, to which, Mr. C. said, he thought proper to call the attention of the Senate. He would now turn to the treaty of Greenville, concluded about forty years ago, recognizing some general principles applicable to this subject. Mr. C. then quoted the fifth article of that treaty, as follows: "To prevent any misunderstanding about the Indian lands relinquished by the United

States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: the Indian tribes who have a right to those lands are quietly to enjoy them, hunting, planting and dwelling thereon so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and, until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States, and no other power whatever."

Such, sir, (said Mr. C.,) are the rights of the Indian tribes. And what are those rights? They are, that the Indians shall live under their own customs and laws; that they shall live upon their own lands, hunting, planting and dwelling thereon so long as they please, without interruption or molestation of any sort from the white people of the United States, acknowledging themselves under the protection of the United States, and of no other power whatever; that when they no longer wish to keep the lands, they shall sell them only to the United States, whose government thus secures to itself the pre-emptive right of purchase in them. These rights, so secured by successive treaties and guaranties, have also been recognized, on several occasions, by the highest judicial tribunals. Mr. C. here quoted from an opinion of the Supreme Court a passage declaring that the Indians are acknowledged to have an unquestionable and heretofore unquestioned right to their land, until it shall be extinguished by voluntary cession to this government.

But (said Mr. C.) it is not at home alone that the rights of the Indians within the limits of the United States have been recognized. Not only has the Executive, the Congress of the United States, and the Supreme Court, recognized these rights, but in one of the most important epochs of this government, and on one of the most solemn occasions in our intercourse with foreign powers, these rights of the Indian tribes have been acknowledged. You, sir, [addressing the President of the Senate,] will understand me at once to refer to the negotiation between the government of Great Britain and that of the United States, which had for its object the termination of the late war between the two countries. Sir, it must be within your recollection, and that of every member of the Senate, that the hinge upon which that negotiation turned, the ground upon which it was for a long time apprehended that the conference between the commissioners would terminate in a rupture of the negotiation between the two countries—was, the claim brought forward on that memorable occasion, by Great Britain, in behalf of the Indians within the limits of the United States. It will be recollected that she advanced, as a principle from which she would not recede, as

*a sine qua non*, again and again, during the progress of the negotiation, that the Indians, as her allies, should be included in the treaty of peace which the negotiators were about forming; that they should have a permanent boundary assigned them, and that neither Great Britain nor the United States should be at liberty to purchase their lands.

Such were the pretensions urged on that occasion, which the commissioners of the United States had felt it to be their imperative duty to resist. To establish, as the boundary, the line of the treaty of Greenville, as proposed, which would have excluded from the benefit of American laws and privileges a population of not less than a hundred thousand of the inhabitants of Ohio, American citizens, entitled to the protection of the government, was a proposition which the American negotiators could not for a moment entertain: they would not even refer it to their government, though assured that it would there meet the same unanimous rejection that it did from them. But it became a matter of some importance that a satisfactory assurance should be given to Great Britain that the war, which we were about to bring to a conclusion with her, should close also with her allies: and what was that assurance? Mr. C. said he would not trouble the Senate with tracing the whole account of that negotiation, but he begged leave to call their attention to one of the passages of it. You will find, (said Mr. C.,) on examining the history of the negotiation, that the demand brought forward by the British government, through their minister, on this occasion, was the subject of several argumentative papers. Towards the close of this correspondence, reviewing the course pursued towards the Aborigines by the several European powers which had planted colonies in America, comparing it with that of the United States, and contrasting the lenity, kindness and forbearance of the United States, with the rigor and severity of other powers, the American negotiators expressed themselves as follows:

“From the rigor of this system however as practised by Great Britain, and all the other European powers in America, the humane and liberal policy of the United States has voluntarily relaxed. A celebrated writer on the law of nations, to whose authority British jurists have taken particular satisfaction in appealing, after stating, in the most explicit manner, the legitimacy of colonial settlements in America, to the exclusion of all rights of uncivilized Indian tribes, has taken occasion to praise the first settlers of New-England, and of the founder of Pennsylvania, in having purchased of the Indians the lands they resolved to cultivate, notwithstanding their being furnished with a charter from their sovereign. It is this example which the United States, since they became by their independence the sovereigns of the territory, have adopted and organized *into a political system*. Under *that system* the Indians residing in the United States are so far independent that *they live under their own customs, and not under the laws of the United States*; that

their rights upon the lands where they inhabit or hunt *are secured to them by boundaries* defined in amicable treaties between the United States and themselves; and that whenever those boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded by them," &c.

The correspondence was further continued; and finally the commissioners on the part of Great Britain proposed an article to which the American commissioners assented, the basis of which is a declaration of what is the state of the law between the Indian tribes and the people of the United States. They then proposed a further article, which declared that the United States should endeavor to restore peace to the Indians who had acted on the side of Great Britain, together with all the rights, possessions, privileges and immunities which they possessed prior to the year 1811, that is, antecedent to the war between England and the United States; in consideration that Great Britain would terminate the war so far as respected the Indians who had been allies of the United States, and restore to them all the rights, privileges, possessions and immunities which these also had enjoyed previously to the same period. Mr. President, I here state my solemn belief that, if the American commissioners had not declared the laws between the Indians and the people of this country, and the rights of the Indians to be such as they are stated to be in the extracts I have read to the Senate; if they had then stated that any one state of this Union who happened to have Indians residing within its limits, possessed the right of extending over them the laws of such state, and of taking their lands when and how it pleased, that the effect would have been a prolongation of the war. I again declare my most solemn belief, that Great Britain, who assented with great reluctance to this mutual stipulation with respect to the Indians, never would have done it at all, but under a conviction of the correspondence of those principles of Indian inter-national law, (if I may use such a phrase,) with those which the United States government had respected ever since the period of our independence.

Sir, if I am right in this, let me ask whether in adopting the new code which now prevails, and by which the rights of the Indians have been trampled on, and the most solemn obligations of treaties have been disregarded, we are not chargeable with having induced that power to conclude a peace with us by suggestions utterly unfounded and erroneous?

Most of the treaties between the Cherokee nation of Indians and the United States have been submitted to the Senate for ratification, and the Senate have acted upon them in conformity with their constitutional power. Besides the action of the Senate, as a legislative body, in the enactment of laws in conformity with their stipulations, regulating the intercourse of our citizens with that nation, it has acted in its separate character, and



confirmed the treaties themselves by the constitutional majority of two-thirds of its members. Thus have those treaties been sanctioned by the government of the United States and by every branch of that government; by the Senate, the executive, and the Supreme Court; both at home and abroad. But not only have the rights of the Cherokees received all these recognitions; they have been, by implication, recognized by the state of Georgia itself, in the act of 1802, in which she stipulated that the government of the United States, and not the state of Georgia, should extinguish the Indian title to land within her limits; and the general government has been, from time to time, urged by Georgia to comply with its engagements, from that period until the adoption of the late new policy upon this subject.

Having thus, Mr. President, stated, as I hope with clearness, the rights of the Indian tribes, as recognized by the most solemn acts that can be entered into by any government, let me, in the next place, inquire into the nature of the injuries which have been inflicted upon them; in other words, into the present condition of these Cherokees, to whom protection has been assured as well by solemn treaties as by the laws and guaranties of the United States government.

And here let me be permitted to say that I go into this subject with feelings which no language at my command will enable me adequately to express. I assure the senate, and in an especial manner do I assure the honorable senators from Georgia, that my wish and purpose is any other than to excite the slightest possible irritation on the part of any human being. Far from it. I am actuated only by feelings of grief, feelings of sorrow, and of profound regret, irresistibly called forth by a contemplation of the miserable condition to which these unfortunate people have been reduced by acts of legislation proceeding from one of the states of this confederacy. I again assure the honorable senators from Georgia, that, if it has become my painful duty to comment upon some of these acts, I do it not with any desire to place them, or the state they represent, in an invidious position; but because Georgia was, I believe, the first in the career, the object of which seems to be the utter annihilation of every Indian right, and because she has certainly, in the promotion of it, far outstripped every other state in the Union.

I have not before me the various acts of the state in reference to the Indians within her bounds; and it is possible I may be under some mistake in reference to them; and if I am, no one will correct the error more readily, or with greater pleasure.

If, however, I had all those laws in my hands, I should not now attempt to read them. Instead of this, it will be sufficient for me to state the effects which have been produced by them upon the condition of the Cherokee Indians residing in that state. And here follows a list of what has been done by her legislature. Her first act was to abolish the government of these Cherokees. No human community can exist without a govern-

ment of some kind; and the Cherokees, imitating our example, and having learned from us something of the principles of a free constitution, established for themselves a government somewhat resembling our own. It is quite immaterial to us what its form was. They always had had some government among them: and we guaranteed to them the right of living under their own laws and customs, unmolested by any one; insomuch that our own citizens were outlawed should they presume to interfere with them. What particular regulations they adopted in the management of their humble and limited concerns is a matter with which we have no concern. However, the very first act of the Georgia legislature was to abolish all government of every sort among these people, and to extend the laws and government of the state of Georgia over them. The next step was to divide their territory into counties; the next, to survey the Cherokee lands; and the last, to distribute this land among the citizens of Georgia by lottery, giving to every head of a family one ticket, and the prize in land that should be drawn against it. To be sure there were many reservations for the heads of Indian families; and of how much did gentlemen suppose?—of one hundred and sixty acres only, and this to include their improvements. But even to this limited possession the poor Indian was to have no fee simple title: he was to hold as a mere occupant at the will of the state of Georgia for just as long or as short a time as she might think proper. The laws at the same time gave him no one political right whatever. He could not become a member of the state legislature, nor could he hold any office under state authority, nor could he vote as an elector. He possessed not one single right of a freeman. No, not even the poor privilege of testifying to his wrongs in the character of a witness in the courts of Georgia, or in any matter of controversy whatsoever.

These, Mr. President, are the acts of the legislature of the state of Georgia, in relation to the Indians. They were not all passed at one session; they were enacted, time after time, as the state advanced further and further in her steps to the acquisition of the Indian country, and the destruction and annihilation of all Indian rights; until, by a recent act of the same body, the courts of the state itself are occluded against the Indian sufferer, and he is actually denied an appeal even to foreign tribunals, in the erection and in the laws of which he had no voice, there to complain of his wrongs. If he enters the hall of Georgia's justice, it is upon a surrender at the threshold of all his rights. The history of this last law, to which I have alluded is this. When the previous law of the state dividing the Indian lands by lottery was passed, some Indians made an appeal to one of the judges of the state, and applied for an injunction against the proceeding; and such was the undeniable justice of their plea, that the judge found himself unable to refuse it, and he granted the injunction sought. It was that injunction which led to the

passage of this act: to some of the provisions of which I now invite the attention of the Senate. And first to the title of the act: "A bill to amend an act entitled an act more effectually to provide for the government and protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims; and also to authorize grants to issue for lots drawn in the late land and gold lotteries"—Ah, sir, it was the pursuit of gold which led the Spanish invader to desolate the fair fields of Mexico and Peru—"and to provide for the appointment of an agent to carry certain parts thereof into execution; and to fix the salary of such agent, and to punish those persons who may deter Indians from enrolling for emigration, passed 20th December, 1833." Well, sir, this bill goes on to provide "that it shall be the duty of the agent or agents appointed by his excellency the governor, under the authority of this or the act of which it is amendatory, to report to him the number, district and section of all lots of land subject to be granted by the provisions of said act, which he may be required to do by the drawer, or his agent, or the person claiming the same; and it shall be the duty of his excellency the governor, upon the application of the drawer of any of the aforesaid lots, his or her special agents, or the person to whom the drawer may have bona fide conveyed the same, his agent or assigns, to issue a grant therefor; and it shall be the duty of the said agent or agents, upon the production of the grant so issued as aforesaid by the grantor, his or her agent, or the person, or his or her agent to whom the said land so granted as aforesaid may have been bona fide conveyed, to deliver possession of said granted lot to the said grantee, or person entitled to the possession of the same under the provisions of this act, or the act of which this is amendatory, and his excellency the governor is hereby authorized, upon satisfactory evidence that the said agent is impeded or resisted in delivering such possession, by a force which he cannot overcome, to order out a sufficient force to carry the power of said agent or agents fully into effect, and to pay the expenses of the same out of the contingent fund: provided nothing in this act shall be so construed as to require the interference of the said agent between two or more individuals claiming possession, by virtue of titles derived from a grant from the state to any lot."

Thus, after the state of Georgia had distributed the lands of the Indians by lottery, and the drawers of prizes were authorized to receive grants of the land drawn, and with these grants in their hand were authorized to demand of the agent of the state, appointed for the purpose, to be put in possession of the soil thus obtained; and if any resistance to their entry should be made, and who was to make it but a poor Indian? the governor is empowered to turn out the military force of the state, and enable the agent to take possession by force, without trial, without judgment, and without investigation.

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But, should there be two claimants of the prize, should two of the ticket holders dispute their claim to the same lot, then no military force was to be used. It was only when the resistance was by an Indian—it was only when Indian rights should come into collision with the alledged rights of the state of Georgia, that the strong hand of military power was instantly to interpose.

The next section of the act is in these words: "And be it further enacted by the authority aforesaid, That if any person dispossessed of a lot of land under this act, or the act of which it is amendatory, shall go before a justice of the peace or of the inferior court, and make affidavit that he or she was not liable to be dispossessed under or by any of the provisions of this or the aforesaid act, and file said affidavit in the clerk's office of the superior court of the county in which said land shall lie, such person upon giving bond and security in the clerk's office for the costs to accrue on the trial, shall be permitted within ten days from such dispossessing to enter an appeal to said superior court, and at said court the judge shall cause an issue to be made up between the appellant and the person to whom possession of said land was delivered by either of said agents, which said issue shall be in the following form."

Mr. Cuthbert, of Georgia, here interposed: and having obtained Mr. Clay's consent to explain, stated that he had unfortunately not been in the Senate when the honorable senator commenced his speech; but had learned that it was in support of a memorial from certain Cherokee Indians in the state of Georgia, who desired to emigrate. He must be permitted to say, that the current of the honorable senator's remarks did not suit remarkably well the subject of such a memorial. A memorial of a different kind had been presented, and which the committee on Indian affairs had before it, to which the senator's remarks would better apply. The present discussion was wholly unexpected, and it seemed to him not in consistency with the object of the memorial he had presented.

Mr. Clay replied that he was truly sorry the honorable gentleman had been absent when he commenced speaking. He had delayed presenting the memorial because he observed that neither of the senators from Georgia was in his seat, until the hour when they might be expected to be present, and when one of them, (Mr. King,) had actually taken his seat. If the honorable senator had been present he would have heard Mr. Clay say that he thought the presentation of the memorial a fit occasion to express his sentiments, not only touching the rights of these individual petitioners, but on the rights of all the Indian tribes, and their relations to this government. And if he would have but a little patience he would find that it was Mr. Clay's intention to present propositions which went to embrace both resolutions.

Mr. Clay now resumed the course of his speech. And here,

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**Mr. President,** let me pause and invite the attention of the senate to the provision in the act of Georgia which I was reading, (the substance of which Mr. Clay here repeated)—that is, that he may have the privilege of an appeal to a tribunal of justice, by forms and by a bond with the nature and force of which he is unacquainted; and that then he may have—what beside? I invoke the attention of the Senate to this part of the law. What, I ask, does it secure to the Indian? His rights? The rights recognized by treaties? The rights guarantied to him by the most solemn acts which human governments can perform? No. It allows him to come into the courts of the state, and there to enjoy the benefit of the summary proceeding called in the act “an appeal”—but which can never be continued beyond a second term; and when he comes there, what then? He shall be permitted to come into court and enter an appeal, which shall be in the following form:

“A. B., who was dispossessed of a lot of land by an agent of the state of Georgia, comes into court, and admitting the right of the state of Georgia to pass the law under which agent acted, avers that he was not liable to be dispossessed of said land, by or under any one of the provisions of the act of the general assembly of Georgia, passed 20th December, 1833, ‘more effectually to provide for the protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims, and also to authorize grants to issue for lots drawn in the land and gold lotteries in certain cases, and to provide for the appointment of an agent to carry certain parts thereof into execution, and fix the salary of such agent, and to punish those persons who may deter Indians, from enrolling for emigration,’ or the act amendatory thereof, passed at the session of the legislature of 1831: ‘in which issue the person to whom possession of said land was delivered shall join; and which issue shall constitute the entire pleadings between the parties; nor shall the court allow any matter other than is contained in said issue to be placed upon the record or files of said court; and said cause shall be tried at the first term of the court, unless good cause shall be shown for a continuance, and the same party shall not be permitted to continue said cause more than once, except for unavoidable providential cause: nor shall said court at the instance of either party pass any order or grant any injunction to stay said cause, nor permit to be engrafted on said cause any other proceedings whatever.’ ”

At the same time we find, by another enactment, the judges of the courts of Georgia are restrained from granting injunctions, so that the only form in which the Indian can come before them is in the form of an appeal; and in this, the very first step is an absolute renunciation of the rights he holds by treaty, and the unqualified admission of the rights of his antagonist.

as conferred by the laws of Georgia ; and the court is expressly prohibited from putting any thing else upon the record. Why? do we not all know the reason? If the poor Indian was allowed to put in a plea stating his rights, and the court should then decide against him, the cause would go upon an appeal to the supreme court; the decision could be re-examined, could be annulled, and the authority of treaties vindicated. But, to prevent this, to make it impossible, he is compelled, on entering the court, to renounce his Indian rights, and the court is forbidden to put any thing on record which can bring up a decision upon them.

Mr. President, I have already stated that, in the observations I have made, I am actuated by no other feelings than such as ought to be in the breast of every honest man, the feelings of common justice. I would say nothing, I would whisper nothing, I would insinuate nothing, I would think nothing, which can, in the remotest degree, cause irritation in the mind of any one, of any senator here, of any state in this Union, I have too much respect for every member of the confederacy. I feel nothing but grief for the wretched condition of these most unfortunate people, and every emotion of my bosom dissuades me from the use of epithets that might raise emotions which should draw the attention of the Senate from the justice of their claims. I forbear to apply to this law any epithet of any kind. Sir, no epithet is needed. The features of the law itself; its warrant for the interposition of military power, when no trial and no judgment has been allowed; its denial of any appeal, unless the unhappy Indian shall first renounce his own rights, and admit the rights of his opponent—features such as these are enough to show what the true character of the act is, and supersede the necessity of all epithets, were I even capable of applying any.

The Senate will thus perceive that the whole power of the state of Georgia, military as well as civil, has been made to bear upon these Indians, without their having any voice in forming, judging upon, or executing the laws under which he is placed, and without even the poor privilege of establishing the injury he may have suffered by Indian evidence: nay, worse still, not even by the evidence of a white man! Because the renunciation of his rights precludes all evidence, white or black, civilized or savage. There then he lies, with his property, his rights and every privilege which makes human existence desirable, at the mere mercy of the state of Georgia; a state, in whose government or laws he has no voice. Sir, it is impossible for the most active imagination to conceive a condition of human society more perfectly wretched. Shall I be told that the condition of the African slave is worse? No, sir, no sir. It is not worse. The interest of the master makes it at once his duty and his inclination to provide for the comfort and the health of his slave: for without these he would be unprofit-

**able.** Both pride and interest render the master prompt in vindicating the rights of his slave, and protecting him from the oppression of others, and the laws secure to him the amplest means to do so. But who—what human being, stands in the relation of master or any other relation, which makes him interested in the preservation and protection of the poor Indian thus degraded and miserable? Thrust out from human society, without the sympathies of any, and placed without the pale of common justice, who is there to protect him, or to defend his rights?

Such, Mr. President, is the present condition of these Cherokee memorialists, whose case it is my duty to submit to the consideration of the Senate. There remains but one more inquiry before I conclude. Is there any remedy within the scope of the powers of the federal government as given by the constitution? If we are without the power, if we have no constitutional authority, then we are also without responsibility. Our regrets may be excited, our sympathies may be moved, our humanity may be shocked, our hearts may be grieved, but if our hands are tied, we can only unite with all the good, the Christian, the benevolent portion of the human family, in deploring what we cannot prevent.

But, sir, we are not thus powerless. I stated to the Senate, when I began, that there are two classes of the Cherokees; one of these classes desires to emigrate, and it was their petition I presented this morning, and with respect to these, our powers are ample to afford them the most liberal and effectual relief. They wish to go beyond the Mississippi, and to be guarantied in the possession of the country which may be there assigned to them. As the Congress of the United States have full powers over the territories, we may give them all the guaranty which Congress can express for the undisturbed possession of their lands. With respect to their case there can be no question as to our powers.

And then, as to those who desire to remain on this side the river, I ask again, are we powerless? Can we afford them no redress? Must we sit still and see the injury they suffer, and extend no hand to relieve them? It were strange indeed, were such the case. Why have we guarantied to them the enjoyment of their own laws? Why have we pledged to them protection? Why have we assigned them limits of territory? Why have we declared that they shall enjoy their homes in peace, without molestation from any? If the United States' government has contracted these serious obligations, it ought, before the Indians were reduced by our assurances to rely upon our engagement, to have explained to them its want of authority to make the contract. Before we pretend to Great Britain, to Europe, to the civilized world, that such were the rights we would secure to the Indians, we ought to have examined the extent and the grounds of our own rights to do so. But is such, indeed our situation? No, sir. Georgia has shut her courts against these



Indians. What is the remedy? To open ours. Have we not the right? What says the constitution? "The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

But here was a case of conflict between the rights of the proprietors and the local laws; and here was the very case which the constitution contemplated, when it declared that the power of the federal judiciary should extend to all cases under the authority of the United States. Therefore it was fully within the competence of Congress, under the provisions of the constitution, to provide the manner in which the Cherokees might have their rights decided, because a grant of the means was included in the grant of jurisdiction. It was competent, then for Congress to decide whether the Cherokee had a right to come into a court of justice and to make an appeal to the highest authority to sustain the solemn treaties under which their rights had been guaranteed, and in the sacred character of which they had reposed their confidence. And if Congress possessed the power to extend relief to the Indians, were they not bound by the most sacred of human considerations, the obligations of treaties, the protection assured them, by every Christian tie, every benevolent feeling, every humane impulse of the human heart, to extend it? If they were to fail to do this, and there was, as reason and revelation declared there was, a tribunal of eternal justice to which all human power was amenable, how could they, if they refused to perform their duties to this injured and oppressed, though civilized race, expect to escape the visitations of that Divine vengeance which none would be permitted to avoid who had committed wrong, or done injustice to others?

At this moment, when the United States were urging on the government of France the fulfilment of the obligations of the treaty concluded with that country, to the execution of which it was contended that France had plighted her sacred faith, what strength, what an irresistible force would be given to our plea, if we could say to France that, in all instances, we had completely fulfilled all our engagements, and that we had adhered faithfully to every obligation which we had contracted, no matter whether it was entered into with a powerful or a weak people; if we could say to her that we had complied with all our engagements to others, that we now came before her, always acting right as we had done, to induce her also to fulfil her obligations to us. How should we stand in the eyes of France and of the civilized world, if, in spite of the most solemn treaties, which had existed for half a century, and had been recognized in every form, and by every branch of the government, how would they be justified if they suffered these treaties to be trampled under foot, and the rights which they were given to secure trodden into the dust? How would Great Britain, after

the solemn understanding entered into with her at Ghent, feel after such a breach of faith? And how could he, as a commissioner on the negotiation of that treaty, hold up his head before Great Britain, after having been thus made an instrument of fraud and deception, as he assuredly would have been, if the rights of the Indians are to be thus violated, and the treaties, by which they were secured, violated? How could he hold up his head, after such a violation of rights, and say that he was proud of his country, of which they all must wish to be proud?

For himself, he rejoiced that he had been spared, and allowed a suitable opportunity to present his views and opinions on this great national subject, so interesting to the national character of the country for justice and equity. He rejoiced that the voice which, without charge of presumption or arrogance, he might say, was ever raised in defence of the oppressed of the human species, had been heard in defence of this most oppressed of all. To him, in that awful hour of death, to which all must come, and which, with respect to himself, could not be very far distant, it would be a source of the highest consolation that an opportunity had been found by him, on the floor of the Senate, in the discharge of his official duty, to pronounce his views on a course of policy marked by such wrongs as were calculated to arrest the attention of every one, and that he had raised his humble voice, and pronounced his solemn protest against such wrongs.

Mr. C. would no longer detain the Senate, but would submit the following propositions:

*Resolved*, That the committee on the judiciary be directed to inquire into the expediency of making further provision, by law, to enable Indian nations, or tribes, to whose use and occupancy lands are secured by treaties concluded between them and the United States, to defend and maintain their rights to such lands in the courts of the United States, in conformity with the constitution of the United States.

*Resolved*, That the committee on Indian affairs be directed to inquire into the expediency of making further provision, by law, for setting apart a district of country west of the Mississippi river, for such of the Cherokee nation as may be disposed to emigrate and to occupy the same, and for securing in perpetuity the peaceful and undisturbed enjoyment thereof to the emigrants and their descendants.

ON THE APPOINTING AND REMOVING  
POWER.

*Delivered in the Senate on the 18th of February, on the passage of the bill entitled "An act to repeal the first and second sections of the act to limit the term of service of certain officers therein named."*

Mr. Clay thought it extremely fortunate that this subject of executive patronage came up, at this session, unencumbered by any collateral question. At the last session we had the removal of the deposits, the treasury report sustaining it, and the protest of the President against the resolution of the Senate. The bank mingled itself in all our discussions, and the partizans of executive power availed themselves of the prejudices which had been artfully excited against that institution, to deceive and blind the people as to the enormity of executive pretensions. The bank has been doomed to destruction, and no one now thinks the recharter of it practicable, or ought to be attempted. I fear, said Mr. C., that the people will have just and severe cause to regret its destruction. The administration of it was uncommonly able; and one is at a loss which most to admire, the imperturbable temper or the wisdom of its enlightened President. No country can possibly possess a better general currency than it supplied. The injurious consequences of the sacrifice of this valuable institution will soon be felt. There being no longer any sentinel at the head of our banking establishments, to warn them, by its information and operations, of approaching danger, the local institutions, already multiplied to an alarming extent, and almost daily multiplying, in seasons of prosperity, will make free and unrestrained emissions. All the channels of circulation will become gorged. Property will rise extravagantly high, and, constantly looking up, the temptation to purchase will be irresistible. Inordinate speculation will ensue, debts will be freely contracted, and when the season of adversity comes, as come it must, the banks, acting without concert and without guide, obeying the law of self-preservation, will all at the same time call in their issues; the vast number will exaggerate the alarm, and general distress, wide-spread ruin, and an explosion of the whole banking system, or the establishment of a new bank of the United States, will be the ultimate effects.

We can now deliberately contemplate the vast expansion of executive power, under the present administration, free from embarrassment. And is there any real lover of civil liberty who can behold it without great and just alarm? Take the doctrines of the protest and the Secretary's report together, and, instead of having a balanced government with three co-ordinate

departments, we have but one power in the state. According to those papers all the officers concerned in the administration of the laws are bound to obey the President. His will controls every branch of the administration. No matter that the law may have assigned to other officers of the government specifically defined duties; no matter that the theory of the constitution and the law supposes them bound to the discharge of those duties according to their own judgment, and under their own responsibility, and liable to impeachment for malfeasance; the will of the President, even in opposition to their own deliberate sense of their obligations, is to prevail, and expulsion from office is the penalty of disobedience! It has not, indeed, in terms, been claimed, but it is a legitimate consequence from the doctrine asserted, that all decisions of the judicial tribunals, not conformable with the President's opinion, must be inoperative, since the officers charged with their execution are no more exempt from the pretended obligation to obey his orders than any other officer of the administration.

The basis of this overshadowing superstructure of executive power is, the power of dismissal, which it is one of the objects of the bill under consideration somewhat to regulate, but which it is contended by the supporters of executive authority is uncontrollable. The practical exercise of this power, during this administration, has reduced the salutary co-operation of the Senate, as approved by the Constitution, in all appointments, to an idle form. Of what avail is it that the Senate shall have passed upon a nomination, if the President, at any time thereafter, even the next day, whether the Senate be in session or in vacation, without any known cause, may dismiss the incumbent? Let us examine the nature of this power. It is exercised in the recesses of the executive mansion, perhaps upon secret information. The accused officer is not present nor heard, nor confronted with the witnesses against him, and the President is judge, juror and executioner. No reasons are assigned for the dismissal, and the public is left to conjecture the cause. Is not a power so exercised essentially a despotic power? It is adverse to the genius of all free governments, the foundation of which is responsibility. Responsibility is the vital principle of civil liberty, as irresponsibility is the vital principle of despotism. Free government can no more exist without this principle than animal life can be sustained without the presence of the atmosphere. But is not the President absolutely irresponsible in the exercise of this power? How can he be reached? By impeachment? It is a mockery.

It has been truly said that the office was not made for the incumbent. Nor was it created for the incumbent of another office. In both and in all cases public offices are created for the public; and the people have a right to know why and wherefore one of their servants dismisses another. The abuses which have flowed and are likely to flow from this power, if unchecked, are indescribable. How often have all of us witnessed the expulsion of

the most faithful officers, of the highest character, and of the most undoubted probity, for no other imaginable reason, than difference in political sentiments? It begins in politics and may end in religion. If a President should be inclined to fanaticism, and the power should not be regulated, what is to prevent the dismissal of every officer who does not belong to his sect, or persuasion? He may, perhaps truly, say if he does not dismiss him, that he has not his confidence. It was the cant language of Cromwell and his associates, when obnoxious individuals were in or proposed for office, that they could not *confide in them*.—The tendency of this power is to revive the dark ages of feudalism, and to render every officer a feudatory. The bravest man in office, whose employment and bread depend upon the will of the President, will quail under the influence of the power of dismissal. If opposed in sentiments to the administration, he will begin by silence, and finally will be goaded into partisanship.

The Senator from New-York, (Mr. Wright,) in analyzing the list of 100,000 who are reported by the committee of patronage to draw money from the public treasury, contends that a large portion of them consists of the army, the navy and revolutionary pensioners; and, paying a just compliment to their gallantry and patriotism, asks, if they will allow themselves to be instrumental in the destruction of the liberties of their country? It is very remarkable that hitherto the power of dismissal has not been applied to the army and navy, to which, from the nature of the service, it would seem to be more necessary than to those in civil places. But accumulation and concentration are the nature of all power, and especially of executive power. And it cannot be doubted that, if the power of dismissal, as now exercised, in regard to civil officers, is sanctioned and sustained by the people, it will, in the end, be extended to the army and navy. When so extended, it will produce its usual effect of subserviency, or if the present army and navy should be too stern and upright to be moulded according to the pleasure of the executive, we are to recollect that the individuals who compose them are not to live always, and may be succeeded by those who will be more pliant and yielding. But I would ask the Senator what has been the effect of this tremendous power of dismissal upon the classes of officers to which it has been applied? Upon the post office, the land office, and the custom house? They constitute so many *corps d'armee*, ready to further, on all occasions, the executive views and wishes. They take the lead in primary assemblies whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession. We are assured that a large majority of the recent convention at Columbus, in Ohio, to nominate the President's successor, were office holders. And do you imagine that *they* would nominate any other than the President's known favorite?

The power of removal as now exercised is, no where in the

constitution expressly recognized. The only mode of displacing a public officer for which it does provide, is by impeachment.—But it has been argued on this occasion, that it is a sovereign power, an inherent power, and an executive power; and, therefore, that it belongs to the President. Neither the premises nor the conclusion can be sustained. If they could be, the people of the United States have all along totally misconceived the nature of their government, and the character of the office of their Supreme Magistrate. Sovereign power is supreme power; and in no instance whatever is there any supreme power vested in the President. Whatever sovereign power is, if there be any, conveyed by the constitution of the United States, is vested in Congress, or in the President and Senate. The power to declare war, to lay taxes, to coin money, is vested in Congress; and the treaty making power in the President and Senate. The Postmaster General has the power to dismiss his deputies. Is that a sovereign power, or has he any?

Inherent power! That is a new principle to enlarge the powers of the general government. Hitherto it has been supposed that there are no powers possessed by the government of the United States, or any branch of it, but such as are granted by the constitution; and, in order to ascertain what has been granted, that it was necessary to show the grant, or to establish that the power claimed was necessary and proper to execute some granted power. In other words, that there are no powers but those which are expressed or incidental. But it seems that a great mistake has existed. The partisans of the executive have discovered a third and more fruitful source of power. Inherent power! Whence is it derived? The constitution created the office of President, and made it just what it is. It had no powers prior to its existence. It can have none but those which are conferred upon it by the instrument which created it, or laws passed in pursuance of that instrument. Do gentlemen mean, by inherent power, such power as is exercised by the monarchs or chief magistrates of other countries? If that be their meaning, they should avow it.

It has been argued that the power of removal from office is an executive power; that all executive power is vested in the President; and that he is to see that the laws are faithfully executed, which, it is contended, he cannot do, unless, at his pleasure, he may dismiss any subordinate officer.

The mere act of dismissal or removal may be of an executive nature, but the judgment or sentence which precedes it is a function of a judicial and not executive nature. Impeachments, which, as has been already observed, are the only mode of removal from office expressly provided for in the constitution, are to be tried by the Senate, acting as a judicial tribunal. In England, and in all the states, they are tried by judicial tribunals.—In several of the states removal from office sometimes is effected by the legislative authority, as in the case of judges on the con-

currence of two-thirds of the members. The administration of the laws of the several states proceeds regularly, without the exercise on the part of the governors of any power similar to that which is claimed for the President. In Kentucky, and in other states, the governor has no power to remove sheriffs, collectors of the revenue, clerks of courts, or any one officer employed in administration; and yet the governor, like the President, is constitutionally enjoined to see that the laws are faithfully executed.

The clause relied upon to prove that all executive power is vested in the President, is the first section of the second article. On examining the constitution, we find that, according to its arrangement, it treats first of the legislative power, then of the executive, and lastly of the judicial power. In each instance, it provides how those powers shall be respectively vested. The legislative power is confided to a Congress, and the constitution then directs how the members of the body shall be chosen, and, after having constituted the body, enumerates and carefully specifies its powers. And the same course is observed both with the executive and the judiciary. In neither case does the preliminary clause convey any power; but the powers of the several departments are to be sought for in the subsequent provisions. The legislative powers granted by the constitution are to be vested, how? In a Congress. What powers? Those which are enumerated. The executive power is to be vested, how? In a council, or in several? No, in a President of the United States of America. What executive power? That which is possessed by any Chief Magistrate, in any country, or that which speculative writers attribute to the executive head? No such thing. That power, and that only, which the constitution subsequently assigns to the Chief Magistrate.

The President is enjoined by the constitution to take care that the laws be faithfully executed. Under this injunction, the power of dismissal is claimed for him; and it is contended that if those charged with the execution of the laws attempt to execute them in a sense different from that entertained by the President, he may prevent it, or withhold his co-operation. It would follow that, if the judiciary give to the law an interpretation variant from that of the President, he would not be bound to afford means which might become necessary to execute their decision. If these pretensions are well founded, it is manifest that the President, by means of the veto, in arresting the passage of laws which he disapproves, and the power of expounding those which are passed, according to his own sense of them, will become possessed of all the practical authority of the whole government.— If the judiciary decide a law contrary to the President's opinion of its meaning, he may command the marshal not to execute the decision, and urge his constitutional obligation to take care that the laws be faithfully executed. It will be recollected, perhaps, by the Senate that, during the discussions on the deposite question, I predicted that the day would arrive when a President, dis-



posed to enlarge his powers, would appeal to his official oath as a source of power. In that oath he undertakes that he will, "to the best of his ability, preserve, protect and defend the constitution of the United States." The fulfilment of the prediction quickly followed; and during the same session, in the protest of the President, we find him referring to this oath as a source of power and duty. Now, if the President, in virtue of his oath, may interpose and prevent any thing from being done, contrary to the constitution, as he understands it; and may, in virtue of the injunction to take care that the laws be faithfully executed, prevent the enforcement of any law contrary to the sense in which he understands it, I would ask what powers remain to any other branch of the government? Are they not all substantially absorbed in the WILL of one man?

The President's oath obliges him to do no more than every member of Congress is also bound by official oath to do: that is, to support the constitution of the United States in their respective spheres of action. In the discharge of the duties specifically assigned to him by the constitution and laws, he is forever to keep in view the constitution; and this every member of Congress is equally bound to do, in the passage of laws. To step out of his sphere; to trench upon other departments of the government, under the notion that they are about to violate the constitution, would be to set a most pernicious and dangerous example of violation of the constitution. Suppose Congress, by two thirds of each branch, pass a law contrary to the veto of the President, and to his opinion of the constitution, is he afterwards at liberty to prevent its execution? The injunction, to which I have adverted, common both to the federal and most of the state constitutions, imposes only upon the Chief Magistrate the duty of executing those laws with the execution of which he is specially charged; of supplying, when necessary, the means with which he is entrusted to enable others to execute those laws, the enforcement of which is confided to them; and to communicate to Congress infractions of the laws, that the guilty may be brought to punishment, or the defects of legislation remedied.—The most important branch of the government to the rights of the people, as it regards the mere execution of the laws, is the judiciary; and yet they hold their offices by a tenure beyond the reach of the President. Far from impairing the efficacy of any powers with which he is invested, this permanent character in the judicial office is supposed to give stability and independence to the administration of justice.

The power of removal from office not being one of those powers which are expressly granted and enumerated in the constitution, and having, I hope, successfully shown that it is not essentially of an executive nature, the question arises to what department of the government does it belong, in regard to all offices created by law, or whose tenure is not defined in the constitution? There is much force in the argument which attaches

the power of dismissal to the President and Senate conjointly, as the appointing power. But I think we must look for it to a broader and higher source—the legislative department. The duty of appointment may be performed under a law which enacts the mode of dismissal. This is the case in the post office department, the Postmaster General being invested with both the power of appointment and of dismissal. But they are not necessarily allied, and the law might separate them; and assign to one functionary the right to appoint, and to a different one the right to dismiss. Examples of such a separation may be found in the state governments.

It is the legislative authority which creates the office, defines its duties, and may prescribe its duration. I speak, of course, of offices not created by the constitution, but the law. The office, coming into existence by the will of Congress, the same will may provide how, and in what manner, the office and the officer shall both cease to exist. It may direct the conditions on which he shall hold the office, and when and how he shall be dismissed. Suppose the constitution had omitted to prescribe the tenure of the judicial office, could not Congress do it? But the constitution has not fixed the tenure of any subordinate offices, and therefore Congress may supply the omission. It would be unreasonable to contend that, although Congress, in pursuit of the public good, brings the office and the officer into being, and assigns their purposes, yet the President has a control over the officer which Congress cannot reach or regulate; and this control in virtue of some vague and undefined implied executive power which the friends of executive supremacy are totally unable to attach to any specific clause in the constitution.

It has been contended, with great ability, that under the clause of the constitution which declares that Congress shall have power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all others* vested by this constitution in the government of the United States, or *in any department or officer thereof*,” Congress is the sole depository of implied powers, and that no other department or officer of the government possesses any. If this argument be correct, there is an end of the controversy. But if the power of dismissal be incident to the legislative authority, Congress has the clear right to regulate it. And if it belong to any other department of the government, under the cited clause, Congress has the power to legislate upon the subject, and may regulate it, although it could not divest the department altogether of the right.

Hitherto I have considered the question upon the ground of the constitution, unaffected by precedent. We have in vain called upon our opponents to meet us upon that ground; and to point out the clause of the constitution which by express grant, or necessary implication, subjects the will of the whole official corps to the pleasure of the President, to be dismissed whenever he

thinks proper, without any cause, and without any reasons publicly assigned or avowed for the dismissal, and which excludes Congress from all authority to legislate against the tremendous consequences of such a vast power. No such clause has been shown; nor can it be, for the best of all reasons, because it does not exist. Instead of bringing forward any such satisfactory evidence, gentlemen entrench themselves behind the precedent which was established in 1789, when the first Congress recognised the power of dismissal in the President; that is, they rely upon the *opinion* of the first Congress as to what the constitution meant as conclusive of what it is.

The precedent of 1789 was established in the House of Representatives against the opinion of a large and able minority, and in the Senate by the casting vote of the Vice President, Mr. John Adams. It is impossible to read the debate which it occasioned without being impressed with the conviction that the just confidence reposed in the father of his country, then at the head of the government, had great, if not decisive influence in establishing it. It has never, prior to the commencement of the present administration, been submitted to the process of review. It has not been reconsidered, because, under the mild administrations of the predecessors of the President, it was not abused, but generally applied to cases to which the power was justly applicable.

[Mr. Clay here proceeded to recite from a memorandum, the number of officers removed under the different Presidents, from Washington down; but the reporter not having access to the memorandum, is unable to note the precise number under each, and can only state generally that it was inconsiderable under all the administrations prior to the present, but under that of General Jackson the number of removals amounted to more than two thousand—of which some five or six hundred were Postmasters.]

Precedents deliberately established by wise men are entitled to great weight. They are the evidence of truth, but *only* evidence. If the same rule of interpretation has been settled, by concurrent decisions, at different and distant periods, and by opposite dominant parties, it ought to be deemed binding, and not disturbed. But a solitary precedent, established, as this was, by an equal vote of one branch, and a powerful minority in the other, under the influence of a confidence never misplaced in an illustrious individual, and which has never been re-examined, cannot be conclusive.

The first inquiry which suggests itself upon such a precedent as this is, brought forward by the friends of the administration, is, what right have they to the benefit of any precedent? The course of this administration has been marked by an utter and contemptuous disregard of all that had been previously done.—Disdaining to move on in the beaten road carefully constructed by preceding administrations, and trampling upon every thing,

it has seemed resolved to trace out for itself a new line of march. Then, let us inquire how this administration and its partisans dispose of precedents drawn from the same source, the first Congress under the present constitution. If a precedent of that Congress be sufficient authority to sustain an executive power, other precedents established by it, in support of legislative powers, must possess a like force. But do they admit this principle of equality? No such thing. They reject the precedents of the Congress of 1789 sustaining the power of Congress, and cling to that only which expands the executive authority. They go for prerogative, and they go against the rights of the people.

It was in the first Congress that assembled in 1789, that the bank of the United States was established, the power to adopt a protective tariff was maintained, and the right was recognised to authorise internal improvements. And these several powers do not rest on the basis of a single precedent. They have been again and again affirmed, and re-affirmed by various Congresses, at different and distant periods, under the administration of every dominant party; and, in regard to the bank, it has been sanctioned by every branch of the government, and by the people.— Yet the same gentlemen, who console themselves with the precedent of 1789 in behalf of the executive prerogative, reject as unconstitutional all these legislative powers.

No one can carefully examine the debate in the House of Representatives in 1789, without being struck with the superiority of the argument on the side of the minority, and the unsatisfactory nature of that of the majority. How various are the sources whence the power is derived! Scarcely any two of the majority agree in their deduction of it. Never have I seen, from the pen or tongue of Mr. Madison, one of the majority, any thing so little persuasive or convincing. He assumes that all executive power is vested in the President. He does not qualify it; he does not limit it to that executive power which the constitution grants. He does not discriminate between executive power assigned by the constitution, and executive power enacted by law. He asks, if the Senate had not been associated with the President in the appointing power, whether the President, in virtue of his executive power, would not have had the right to make all appointments? I think not; clearly not. It would have been a most sweeping and far-fetched implication. In the silence of the constitution, it would have devolved upon Congress to provide by law for the mode of appointing to office; and that in virtue of the clause, to which I have already adverted, giving to Congress power to pass all laws necessary and proper to carry on the government. He says, “the danger then merely consists in this: the President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such an abuse of his power?” What motives! The pure heart of a Washington could have had none; the virtuous head of Madison could con-

ceive none ; but let him ask General Jackson, and he will tell him of motives enough. He will tell him that he wishes his administration to be a unit ; that he desires only one will to prevail in the executive branch of government ; that he cannot confide in men who opposed his election ; that he wants places to reward those who supported it ; that the spoils belong to the victor ; and that he is anxious to create a great power in the state, animated by one spirit, governed by one will, and ever ready to second and sustain his administration in all its acts and measures ; and to give its undivided force to the appointment of the successor whom he may prefer. And what, Mr. President, do you suppose are the securities against the abuse of this power, on which Mr. Madison relied ? "In the first place," he says, "he will be impeachable by this house before the Senate, for such an act of mal-administration," &c. Impeachment ! It is not a scarecrow. Impeach the President for dismissing a receiver or register of the land office, or a collector of the customs ! But who is to impeach him ? The House of Representatives. Now suppose a majority of that house should consist of members who approve the principle that the spoils belong to the victors ; and suppose a great number of them are themselves desirous to obtain some of these spoils, and can only be gratified by displacing men from office whose merits require that they should be continued, what chance do you think there would be to prevail upon such a house to impeach the President ? And if it were possible that he should, under such circumstances, be impeached, what prospect do you believe would exist of his conviction by two thirds of the Senate, comprising also members not particularly averse to lucrative offices, and where the spoils doctrine, long practised in New-York, was first boldly advanced in Congress ?

The next security was, that the President, after displacing the meritorious officer, could not appoint another person without the concurrence of the Senate. If Mr. Madison had shown how, by any action of the Senate, the meritorious officer could be replaced, there would have been some security. But the President has dismissed him ; his office is vacant ; the public service requires it to be filled, and the President nominates a successor. In considering this nomination, the President's partizans have contended that the Senate is not at liberty to inquire how the vacancy was produced, but is limited to the single consideration of the fitness of the person nominated. But suppose the Senate were to reject him, that would only leave the office still vacant, and would not reinstate the removed officer. The President would have no difficulty in nominating another, and another, until the patience of the Senate being completely exhausted, they would finally confirm the appointment. What I have supposed is not theory, but actually matter of fact. How often within a few years past have the Senate disapproved of removals from office, which they have been subsequently called upon to concur in filling ? How often, wearied in reject-

ing, have they approved of persons for office whom they never would have appointed? How often have members approved of bad appointments, fearing worse if they were rejected? If the powers of the Senate were exercised by one man, he might oppose, in the matter of appointments, a more successful resistance to executive abuses. He might take the ground that, in cases of improper removal, he would persevere in the rejection of every person nominated, until the meritorious officer was reinstated. But the Senate now consists of forty-eight members, nearly equally divided, one portion of which is ready to approve of all nominations, and of the other, some members conceive that they ought not to incur the responsibility of hazarding the continued vacancy of a necessary office, because the President may have abused his powers. There is, then, no security, not the slightest practical security, against abuses of the power of removal in the concurrence of the Senate in appointment to office.

During the debate in 1789, Mr. Smith, of South Carolina, called for the clause of the constitution granting the power. He said, "we are declaring a power in the President which may hereafter be greatly abused; for we are not always to expect a chief magistrate in whom such entire confidence can be placed as the present. Perhaps gentlemen are so much dazzled with the splendor of the virtues of the present President, as not to be able to see into futurity \* \* \* \* \* We ought to contemplate this power in the hands of an ambitious man who might apply it to dangerous purposes. If we give this power to the President, he may from caprice remove the most worthy men from office: his will and pleasure will be the slight tenure by which the office is to be held, and of consequence you render the officer the mere state dependent, the abject slave of a person who may be disposed to abuse the confidence his fellow citizens have placed in him." Mr. Huntington said, "if we have a vicious President, who inclines to abuse this power, which God forbid, his responsibility will stand us in little stead.

Mr. Gerry, afterwards the republican Vice-President of the United States, contended, "that we are making these officers the mere creatures of the President; they dare not exercise the privilege of their creation, if the President shall order them to forbear; because he holds their thread of life. His power will be sovereign over them, and will soon swallow up the small security we have in the Senate's concurrence to the appointment; and we shall shortly need no other than the authority of the supreme executive officer to nominate, appoint, continue or remove." Was not that prophecy; and do we not feel and know that it is prophecy fulfilled?

There were other members who saw clearly into the future, and predicted, with admirable forecast, what would be the practical operation of this power. But there was one eminently

gifted in this particular. It seems to have been specially reserved for a Jackson to foretell what a Jackson might do. Speaking of some future President, Mr. Jackson—I believe of Georgia—that was his name. What a coincidence! “If he wants to establish an arbitrary authority, and finds the secretary of finance, (Mr. Duane) not inclined to second his endeavors, he has nothing more to do than to remove him, and get one appointed, (Mr. Taney) of principles more congenial with his own. Then, says he, I have got the army; let me have but the money, and I will establish my throne upon the ruins of your visionary republic. Black, indeed, is the heart of that man who even suspects him, (WASHINGTON) to be capable of abusing powers. But, alas! he cannot be with us forever; he is but mortal,” &c. “May not a man with a Pandora’s box in his breast come into power, and give us sensible cause to lament our present confidence and want of foresight.”

In the early stages, and during a considerable portion of the debate, the prevailing opinion seemed to be not that the President was invested by the constitution with the power, but that it should be conferred upon him by act of Congress. In the progress of it the idea was suddenly started that the President possessed the power from the constitution, and the first opinion was abandoned. It was finally resolved to shape the acts, on the passage of which the question arose, so as to recognize the existence of the power of removal in the President.

Such is the solitary precedent on which the contemners of all precedents rely for sustaining this tremendous power in one man! A precedent established against the weight of argument, by a House of Representatives greatly divided, in a Senate equally divided, under the influence of a reverential attachment to the father of his country, upon the condition that, if the power were applied as we know it has been in hundreds of instances recently applied, the President himself would be justly liable to impeachment and removal from office, and which, until this administration, has never, since its adoption, been thoroughly examined or considered. A power, the abuses of which, as developed under this administration, if they be not checked and corrected, must inevitably tend to subvert the constitution, and overthrow public liberty. A standing army has been in all free countries, a just object of jealousy and suspicion. But is not a corps of one hundred thousand dependents upon government, actuated by one spirit, obeying one will, and aiming at one end, more dangerous and formidable than a standing army? The standing army is separated from the mass of society, stationed in barracks or military quarters, and operates by physical force. The official corps is distributed and ramified throughout the whole country, dwelling in every city, village, and hamlet, having daily intercourse with society, and operates on public opinion. A brave people, not yet degenerated, and devoted to



liberty, may successfully defend themselves against a military force. But if the official corps is aided by the executive, by the post-office department, and by a large portion of the public press, its power is invincible. That the operation of the principle which subjects to the will of one man the tenure of all offices, which he may vacate at pleasure, without assigning any cause, must be to render them subservient to his purposes, a knowledge of human nature, and the short experience which we have had, clearly demonstrate.

It may be asked why has this precedent of 1789 not been reviewed? Does not the long acquiescence in it prove its propriety? It has not been re-examined for several reasons. In the first place, all feel and own the necessity of some more summary and less expensive and less dilatory mode of dismissing delinquents from subordinate offices than that of impeachment, which, strictly speaking, was perhaps the only one in the contemplation of the framers of the constitution; certainly it is the only one for which it expressly provides. Then, under all the predecessors of the President, the power was mildly and beneficially exercised, having been always, or with very few exceptions, applied to actual delinquents. Notwithstanding all that has been said about the number of removals which were made during Mr. Jefferson's administration, they were, in fact, comparatively few. And yet he came into power as the head of a great party, which for years had been systematically excluded from the executive patronage; a plea which cannot be urged in excuse for the present chief magistrate. It was reserved for him to act on the bold and daring principle of dismissing from office those who had opposed his election; of dismissing from office for mere difference of opinion!

But it will be argued that if the summary process of dismissal be expedient in some cases, why take it away altogether? The bill under consideration does not disturb the power. By the usage of the government, not I think by the constitution, the President practically possesses the power to dismiss those who are unworthy of holding these offices. By no practice or usage, but that which he himself has created, has he the power to dismiss meritorious officers only because they differ from him in politics. The principal object of the bill is to require the President, in cases of dismissal, to communicate the reasons which have induced him to dismiss the officer; in other words, to make an arbitrary and despotic power a responsible power. It is not to be supposed that, if the President is bound publicly to state his reasons, that he would act from passion or caprice, or without any reason. He would be ashamed to avow that he discharged the officer because he opposed his election. And yet this mild regulation of the power is opposed by the friends of the administration! They think it unreasonable that the President should state his reasons. If he has none, perhaps it is.

But, Mr. President, although the bill is, I think, right in prin-

ciple, it does not seem to me to go far enough. It makes no provision for the insufficiency of the reasons of the President, by restoring or doing justice to the injured officer. It will be some but not sufficient restraint against abuses. I have therefore prepared an amendment, which I beg leave to offer, but which I will not press against the decided wishes of those having the immediate care of the bill. By this amendment,\* as to all offices created by law, with certain exceptions, the power at present exercised is made a suspensory power. The President may, in the vacation of the Senate, suspend the officer and appoint a temporary successor. At the next session of the Senate he is to communicate his reasons; and if they are deemed sufficient the suspension is confirmed, and the Senate will pass upon the new officer. If insufficient, the displaced officer is to be restored. This amendment is substantially the same proposition as one which I submitted to the consideration of the Senate at its last session. Under this suspensory power, the President will be able to discharge all defaulters or delinquents; and it cannot be doubted that the Senate will concur in all such dismissions. On the other hand, it will insure the integrity and independence of the officer, since he will feel that if he honestly and faithfully discharges his official duties, he cannot be displaced arbitrarily, or from mere caprice, or because he has independently exercised the elective franchise.

It is contended that the President cannot see that the laws are faithfully executed, unless he possesses the power of removal. That injunction of the constitution imports a mere general superintendence, except where he is specially charged with the execution of a law. It is not necessary that he should have the power of dismissal. It will be a sufficient security against the abuses of subordinate officers that the eye of the President is upon them, and that he can communicate their delinquency. The state executives do not possess this power of dismissal. In several, if not all, the states, the governor cannot even dismiss the secretary of state; yet we have heard no complaints of the inefficiency of state executives, or of the administration of the laws of the states. The President has no power to dismiss the judiciary; and it might be asked, with equal plausibility, how he could see that the laws are executed, if the judges will not conform to his opinion, and he cannot dismiss them?

But it is not necessary to argue the general question, in considering either the original bill or the amendment. The former

\* The amendment was in the following words:

Be it further enacted, That, in all instances of appointment to office, by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with the Senate; and when the Senate is not in session, the President may suspend any such officer, communicating his reasons for the suspension during the first month of its succeeding session, and if the Senate concur with him the officer shall be removed, but if it do not concur with him, the officer shall be restored to office.

Mr. Clay was subsequently induced not to urge his amendment at this time.

does not touch the power of dismissal, and the latter only makes it conditional instead of being absolute.

It may be said that there are certain great officers, heads of departments and foreign ministers, between whom and the President entire confidence should exist. That is admitted. But surely if the President remove any of them, the people ought to know the cause. The amendment, however, does not reach those classes of officers. And supposing, as I do, that the legislative authority is competent to regulate the exercise of the power of dismissal, there can be no just cause to apprehend that it will fail to make such modifications and exceptions as may be called for by the public interest; especially as whatever bill may be passed must obtain the approbation of the chief magistrate. And if it should attempt to impose improper restrictions upon the executive authority, that would furnish a legitimate occasion for the exercise of the veto. In conclusion, I shall most heartily vote for the bill, with or without the amendment which I have proposed.

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## THE EXPUNGING RESOLUTION.

*On the resolution to expunge a part of the Journal for the session of 1833-1834.*

*In the Senate, Monday, January 16, 1837.*

Mr. Clay rose and said that, considering that he was the mover of the resolution of March, 1834, and the consequent relation in which he stood to the majority of the Senate by whose vote it was adopted, he had felt it to be his duty to say something on this expunging resolution; and he had always intended to do so when he should be persuaded that there existed a settled purpose of pressing it to a final decision. But it had been so taken up and put down at the last session—taken up one day, when a speech was prepared for delivery, and put down when it was pronounced, that he had really doubted whether there existed any serious intention of ever putting it to the vote. At the very close of the last session, it will be recollected that the resolution came up, and in several quarters of the Senate a disposition was manifested to come to a definitive decision. On that occasion he had offered to waive his right to address the Senate, and silently to vote upon the resolution; but it was again laid upon the table, and laid there forever, as the country supposed, and as he believed. It is, however, now revived; and sundry changes having taken place in the members of this body, it would seem that the present design is to bring the resolution to an absolute conclusion.

I have not risen, continued Mr. Clay, to repeat, at full length.

the argument by which the friends of the resolution of March, 1834, sustained it. That argument is before the world, was unanswered at the time, and is unanswerable. And I here, in my place, in the presence of my country and my God, after the fullest consideration and deliberation of which my mind is capable, re-assert my solemn conviction of the truth of every proposition contained in that resolution. But, whilst it is not my intention to commit such an infliction upon the Senate as that would be of retracing the whole ground of argument formerly occupied, I desire to lay before it, at this time, a brief and true state of the case. Before the fatal step is taken of giving to the expunging resolution the sanction of the American Senate, I wish by presenting a faithful outline of the real questions involved in the resolution of 1834, to make a last, even if it is to be an ineffectual appeal to the sober judgments of senators. I begin by re-asserting the truth of that resolution.

Our British ancestors understood perfectly well the immense importance of the money power in a representative government. It is the great lever by which the crown is touched, and made to conform its administration to the interests of the kingdom, and the will of the people. Deprive parliament of the power of freely granting or withholding supplies, and surrender to the king the purse of the nation, he instantly becomes an absolute monarch. Whatever may be the form of government, elective or hereditary, democratic or despotic, that person who commands the force of the nation, and at the same time has uncontrolled possession of the purse of the nation, has absolute power, whatever may be the official name by which he is called.

Our immediate ancestors, profiting by the lessons on civil liberty which had been taught in the country from which we sprung, endeavored to encircle around the public purse, in the hands of Congress, every possible security against the intrusion of the executive. With this view, Congress alone is invested, by the constitution, with the power to lay and *collect* the taxes. When collected, not a cent is to be drawn from the public treasury, but in virtue of an act of Congress. And, among the first acts of this government, was the passage of a law establishing the treasury department, for the safe keeping and the legal and regular disbursement of the money so collected. By that act a Secretary of the Treasury is placed at the head of the department; and, varying in the respect from all the other departments, he is to report, not to the President, but directly to Congress, and is liable to be called to give information in person before Congress. It is impossible to examine dispassionately that act, without coming to the conclusion that he is emphatically the agent of Congress in performing the duties assigned by the constitution to Congress. The act further provides that a Treasurer shall be appointed to receive and keep the public money, and none can be drawn from his custody but under the authority of a law, and in virtue of a warrant drawn by the

Secretary of the Treasury, countersigned by the Comptroller, and recorded by the Register. Only when such a warrant is presented can the Treasurer lawfully pay one dollar from the public purse. Why was the concurrence of these four officers required in disbursements of the public money? Was it not for greater security? Was it not intended that each, exercising a separate and independent will, should be a check upon every other? Was it not the purpose of the law to consider each of these four officers, acting in his proper sphere, not as a mere automaton, but as an intellectual, intelligent and responsible person, bound to observe the law, and to stop the warrant, or stop the money, if the authority of the law were wanting?

Thus stood the treasury from 1789 to 1816. During that long time no President had ever attempted to interfere with the custody of the public purse. It remained where the law placed it, undisturbed, and every Chief Magistrate, including the father of his country, respected the law.

In 1816 an act passed to establish the late bank of the United States for the term of twenty years; and, by the 16th section of the act, it is enacted "that the deposits of the money of the United States in places in which the said bank and the branches thereof may be established, shall be made in said bank or branches thereof, unless the *Secretary of the Treasury shall at any time otherwise order and direct*; in which case, the Secretary of the Treasury shall immediately *lay before Congress*, if in session, and, if not, immediately after the commencement of the next session, *the reasons* of such order or direction."

Thus it is perfectly manifest, from the express words of the law, that the power to make any order or direction for the removal of the public deposits is confided to the Secretary alone, to the absolute exclusion of the President, and all the world besides. And the law, proceeding upon the established principle that the Secretary of the Treasury, in all that concerns the public purse, acts as the direct agent of Congress, requires, in the event of *his* ordering or directing a removal of the deposits, that he shall immediately lay his reasons therefor before whom? The President? No; before Congress.

So stood the public treasury and the public deposits from the year 1816 to September, 1833. In all that period of seventeen years, running through or into four several administrations of the government, the law had its uninterrupted operation, no Chief Magistrate having assumed upon himself the power of diverting the public purse from its lawful custody, or of substituting his will to that of the officer to whose care it was exclusively entrusted.

In the session of Congress of 1832-'3 an inquiry had been instituted by the House of Representatives into the condition of the bank of the United States. It resulted in a conviction of its entire safety, and a declaration by the House, made only a short time before the adjournment of Congress on the fourth

of March, 1833, that the public deposits were perfectly secure. This declaration was probably made in consequence of suspicions then afloat of a design on the part of the executive to remove the deposits. These suspicions were denied by the press friendly to the administration. Nevertheless, the members had scarcely reached their respective homes, before measures were commenced by the executive to effect a removal of the deposits from that very place of safety which it was among the last acts of the House to declare existed in the bank of the United States.

In prosecution of this design, Mr. McLain, the Secretary of the Treasury, who was decidedly opposed to such a measure, was promoted to the Department of State, and Mr. Duane was appointed to succeed him. But Mr. Duane was equally convinced with his predecessor that he was forbidden by every consideration of duty to execute the power with which the law had entrusted the Secretary of the Treasury, and refused to remove the deposits; whereupon he was dismissed from office, a new Secretary of the Treasury was appointed, and, in September, 1833, by the command of the President, the measure was finally accomplished. That it was the President's act was never denied, but proclaimed, boasted, defended. It fell upon the country like a thunderbolt, agitating the Union from one extremity to the other. The stoutest adherents of the administration were alarmed; and all thinking men, not blinded by party prejudice, beheld in the act a bold and dangerous exercise of power; and no human sagacity can now foresee the tremendous consequences which will ensue. The measure was adopted not long before the approaching session of Congress; and, as the concurrence of both branches might be necessary to compel a restoration of the deposits, the object was to take the chance of a possible division between them, and thereby defeat the restoration.

And where did the President find the power for this most extraordinary act? It has been seen that the constitution, jealous of all executive interference with the treasury of the nation, has confined it to the exclusive care of Congress, by every precautionary guard, from the first imposition of the taxes to the final disbursement of the public money.

It has been seen that the language of the sixteenth section of the law of 1816 is express and free from all ambiguity; and that the Secretary of the Treasury is the sole and exclusive depository of the authority which it confers.

Those who maintain the power of the President have to support it against the positive language of the constitution, against the explicit words of the statute, and against the genius and theory of all our institutions.

And how do they surmount these insuperable obstacles? By a series of far-fetched implications, which, if every one of them were as true as they are believed to be incorrect or perverted,

would stop far short of maintaining the power which was exercised.

The first of these implied powers is, that of dismissal, which is claimed for the President. Of all the questioned powers ever exercised by this government, this is the most questionable. From the first Congress down to the present administration, it had never been examined. It was carried, then, in the Senate, by the casting vote of the Vice President. And those who, at that day, argued in behalf of the power, contended for it upon conditions which have been utterly disregarded by the present Chief Magistrate. The power of dismissal is no where in the constitution granted, in express terms, to the President. It is not a necessary incident to any granted power; and the friends of the power have never been able to agree among themselves as to the precise part of the constitution from which it springs.

But, if the power of dismissal was as incontestable as it is justly controvertible, we utterly deny the consequences deduced from it. The argument is, that the President has, by implication, the power of dismissal. From this first implication another is drawn, and that is, that the President has the power to control the officer, whom he may dismiss, in the discharge of his duties, in all cases whatever; and that this power of control is so comprehensive as to include even the case of a specific duty expressly assigned by law to the designated officer.

Now, we deny these results from the dismissing power. That power, if it exists, can draw after it only a right of general superintendence. It cannot authorize the President to substitute his will to the will of the officer charged with the performance of official duties. Above all, it cannot justify such a substitution in a case where the law, as in the present instance, assigns to a designated officer exclusively the performance of a particular duty, and commands him to report, not to the President, but to Congress, in a case regarding the public purse of the nation, committed to the exclusive control of Congress.

Such a consequence as that which I am contesting would concentrate in the hands of one man the entire executive power of the nation, uncontrolled and unchecked.

It would be utterly destructive of all official responsibility.—Instead of each officer being responsible, in his own separate sphere, for his official acts, he would shelter himself behind the orders of the President. And what tribunal, in heaven above or on earth below, could render judgment against any officer for an act, however atrocious, performed by the express command of the President, which, according to the argument, he was absolutely bound to obey?

Whilst all official responsibility would be utterly annihilated in subordinated officers, there would be no practical or available responsibility in the President himself.

But the case has been supposed, of a necessity for the removal of the deposits, and a refusal of the Secretary of the



Treasury to remove them; and it is triumphantly asked if, in such a case, the President may not remove him, and command the deed to be done. That is an extreme case, which may be met by another. Suppose the President, without any necessity, orders the removal from a place of safety to a place of hazard. If there be danger that a Secretary may neglect his duty, there is equal danger that a President may abuse his authority.—Infallibility is not a human attribute. And there is more security for the public in holding the Secretary of the Treasury to the strict performance of an official duty specially assigned to *him*, under all his official responsibility, than to allow the President to wrest the work from his hands, annihilate his responsibility, and stand himself practically irresponsible. It is far better that millions should be lost by the neglect of a Secretary of the Treasury, than to establish the monstrous principle that all the checks and balances of the executive government shall be broken down, the whole power absorbed by one man, and his will become the supreme rule. The argument which I am combatting places the whole treasury of the nation at the mercy of the executive. It is in vain to talk of appropriations by law, and the formalities of warrants upon the treasury. Assuming the argument to be correct, what is to prevent the execution of an order from the President to the Secretary of the Treasury to issue a warrant, without the sanction of a previous legal appropriation, to the Comptroller to countersign it, to the Register to register it, and to the Treasurer to pay it? What becomes of that quadruple security which the precaution of the law provided? Instead of four substantive and independent wills, acting under legal obligations, all are merged in the executive voters.

But there was, in point of fact, no cause, none whatever, for the measure. Every fiscal consideration, (and no other had the Secretary or the President a right to entertain,) required the deposits to be left undisturbed in the place of perfect safety where by law they were. We told you so at the time. We asserted that the charges of insecurity and insolvency of the bank were without the slightest foundation. And time, that great arbiter of human controversies, has confirmed all that we said. The bank, from documents submitted to Congress by the Secretary of the Treasury at the present session, appears to be able not only to return every dollar of the stock held in its capital by the public, but an addition of eleven per cent. beyond it.

Those who defend the executive act have to maintain not only that the President may assume upon himself the discharge of a duty specially assigned to the Secretary of the Treasury, but that he may remove that officer, arbitrarily, and without any cause, because he refused to remove the public deposits without cause.

My mind conducts me to a totally different conclusion. I think, I solemnly believe, that the President "assumed upon him-

self authority and power not conferred by the constitution and laws, but in derogation of both," in the language of the resolution. I believed then in the truth of the resolution; and I now in my place, and under all my responsibility, re-avow my unshaken conviction of it.

But it has been contended on this occasion, as it was in the debate which preceded the adoption of the resolution of 1834, that the Senate has no right to express the truth on any question which, by possibility, may become a subject of impeachment. It is manifest that if it may, there is no more usual or appropriate form in which it may be done than that of resolutions, joint or separate, orders, or bills. In no other mode can the collective sense of the body be expressed. But *Senators* maintain that no matter what may be the executive encroachment upon the joint powers of the two houses, or the separate authority of the Senate, it is bound to stand mute, and not breathe one word of complaint or remonstrance. According to the argument, the greater the violation of the constitution or the law, the greater the incompetency of the Senate to express any opinion upon it! Further, that this incompetency is not confined to the acts of the President only, but extends to those of every officer who is liable to impeachment under the constitution. Is this possible? Can it be true? Contrary to all the laws of nature, is the Senate the only being which has no power of self-preservation—no right to complain or to remonstrate against attacks upon its very existence?

The argument is, that the Senate, being the constitutional tribunal to try all impeachments, is thereby precluded from the exercise of the right to express any opinion upon any official malfeasance, except when acting in its judicial character.

If this disqualification exist, it applies to all impeachable officers, and ought to have protected the late Postmaster General against the resolution, unanimously adopted by the Senate, declaring that he had borrowed money contrary to law. And it would disable the Senate from considering that treasury order, which has formed such a prominent subject of its deliberations during the present session.

And how do Senators maintain this obligation of the Senate to remain silent and behold itself stript, one by one, of all its constitutional powers, without resistance, and without murmur? Is it imposed by the language of the constitution? Has any part of that instrument been pointed to which expressly enjoins it? No, no, not a syllable. But it is attempted to be deduced by another far-fetched implication. Because the Senate is the body which is to try impeachments, therefore *it is inferred* the Senate can express no opinion on any matter which may form the subject of impeachment. The constitution does not say so. That is undeniable; but Senators think so.

The Senate acts in three characters, legislative, executive and judicial; and their importance is in the order enumerated. By far the most important of the three is its legislative. In that, al-

most every day that it has been in session from 1789 to the present time, some legislative business has been transacted ; whilst, in its judicial character, it has not sat more than three or four times in that whole period.

Why should the judicial function limit and restrain the legislative function of the Senate, more than the legislative should the judicial ? If the degree of importance of the two should decide which ought to impose the restraint, in cases of conflict between them, none can doubt which it should be.

But if the argument is sound, how is it possible for the Senate to perform its legislative duties ? An act in violation of the constitution or laws is committed by the President or a subordinate executive officer, and it becomes necessary to correct it by the passage of a law. The very act of the President in question was under a law to which the Senate had given its concurrence. According to the argument, the correcting law cannot originate in the Senate, because it would have to pass in judgment upon that act. Nay, more, it cannot originate in the house and be sent to the Senate, for the same reason of incompetency in the Senate to pass upon it. Suppose the bill contained a preamble reciting the unconstitutional or illegal act, to which the legislative corrective is applied, according to the argument, the Senate must not think of passing it. Pushed to its legitimate consequence, the argument requires the House of Representatives itself cautiously to abstain from the expression of any opinion upon an executive act, except when it is acting as the grand inquest of the nation, and considering articles of impeachment.

Assuming that the argument is well founded, the Senate is equally restrained from expressing any opinion which would imply the innocence or the guilt of an impeachable officer, unless it be maintained that it is lawful to express praise and approbation, but not censure or difference of opinion. Instances have occurred in our past history, (the case of the British minister, Jackson, was a memorable one,) and many others may arise in our future progress, when, in reference to foreign powers, it may be important for Congress to approve what has been done by the executive, to present a firm and united front, and to pledge the country to stand by and support him. May it not do that ? If the Senate dare not entertain and express any opinion upon an executive measure, how do those who support this expunging resolution justify the acquittal of the President which it proclaims ?

No Senator believed in 1834 that, whether the President merited impeachment or not, he ever would be impeached. In point of fact he has not been, and we have every reason to suppose that he never will be impeached. Was the majority of the Senate, in a case where it believed the constitution and laws to have been violated, and the liberties of the people to be endangered, to remain silent, and to refrain from proclaiming the truth, because, against all human probability, the President might be im-

peached by a majority of his political friends in the House of Representatives?

If an impeachment had been actually voted by the House of Representatives, there is nothing in the constitution which enjoins silence on the part of the Senate. In such a case, it would have been a matter of propriety for the consideration of each Senator to avoid the expression of any opinion on a matter upon which, as a sworn judge, he would be called to act.

Hitherto I have considered the question on the supposition that the resolution of March, 1834, implied such guilt in the President that he would have been liable to conviction on a trial by impeachment before the Senate of the United States. But the resolution, in fact, imported no such guilt. It simply affirmed that he had "assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." It imputed no criminal motives. It did not profess to penetrate into the heart of the President. According to the phraseology of the resolution, the exceptionable act might have been performed with the purest and most patriotic intention. The resolution neither affirmed his innocence, nor pronounced his guilt. It amounts then, say his friends on this floor, to nothing. Not so. If the constitution be trampled upon, and the laws be violated, the injury may be equally great, whether it has been done with good or bad intentions. There may be a difference to the officer, none to the country. The country, as all experience demonstrates, has most reason to apprehend those encroachments which take place on plausible prettexts, and with good intentions.

I put it, Mr. President, to the calm and deliberate consideration of the majority of the Senate, are you ready to pronounce, in the face of this enlightened community, for all time to come, and whoever may happen to be the President, that the Senate dare not, in language the most inoffensive and respectful, remonstrate against any executive usurpation, whatever may be its degree or danger?

For one, I will not, I cannot. I believe the resolution of March, 1834, to have been true; and that it was competent to the Senate to proclaim the truth. And I solemnly believe that the Senate would have been culpably neglectful of its duty to itself, to the constitution, and to the country, if it had not announced the truth.

But let me suppose that in all this I am mistaken; that the act of the President, to which exception was made, was in conformity with the spirit of our free institutions and the language of our constitution and laws; and that, whether it was or not, the Senate of 1834 had no authority to pass judgment upon it; what right has the Senate of 1837, a component part of another Congress, to pronounce judgment upon its predecessor? How can you who venture to impute to those who have gone before you an unconstitutional proceeding, escape a similar imputation? What part of the constitution communicates to you any authority

to arraign and try your predecessors? In what article is contained your power to expunge what they have done? And may not the precedent lead to a perpetual code of defacement and restoration of the transactions of the Senate as consigned to the public records?

Are you not only destitute of all authority, but positively forbidden to do what the expunging resolution proposes? The injunction of the constitution to keep a journal of our proceedings is clear, express and emphatic. It is free from ambiguity: no sophistry can pervert the explicit language of the instrument; no artful device can elude the force of the obligation which it imposes. If it were possible to make more manifest the duty which it requires to be performed, that was done by the able and eloquent speeches, at the last session, of the senators from Virginia and Louisiana, (Messrs. Leigh and Porter,) and at this of my colleague. I shall not repeat the argument. But I would ask, if there were no constitutional requirement to keep a journal, what constitutional right has the Senate of this Congress to pass in judgment upon the Senate of another Congress, and to expunge from its journal a deliberate act there recorded? Can an unconstitutional act of that Senate, supposing it to be so, justify you in performing another unconstitutional act?

But, in lieu of any argument upon the point from me, I beg leave to cite for the consideration of the Senate two precedents: one drawn from the reign of the most despotic monarch in modern Europe, under the most despotic minister that ever bore sway over any people: and the other from the purest fountain of democracy in this country. I quote from the interesting life of the Cardinal Richelieu, written by that most admirable and popular author, Mr. James. The Duke of Orleans, the brother of Louis XIII, had been goaded into rebellion by the wary Richelieu. The king issued a decree declaring all the supporters of the duke guilty of high treason, and a copy of it was despatched to the Parliament at Paris, with an order to register it at once. The Parliament demurred, and proceeded to what was called an *arret de partage*. "Richelieu, however, could bear no contradiction in the course which he had laid down for himself;" [how strong a resemblance does that feature of his character bear to one of an illustrious individual whom I will not further describe!] "and hurrying back to Paris with the king, he sent, in the monarch's name, a command for the members of the parliament to present themselves at the Louvre in a body and *on foot*. He was obeyed immediately; and the king receiving them with great haughtiness, the keeper of the seals made them a speech, in which he declared that they had no authority to deliberate upon affairs of state; that the business of private individuals they might discuss, but that the will of the monarch in other matters they were alone called upon to register. *The king then tore with his own hands the page of the register on which the*

*arret de partage had been inscribed, and punished with suspension from their functions several of the members of the various courts composing the Parliament of Paris."* How repeated acts of the exercise of arbitrary power are likely to subdue the spirit of liberty, and to render callous the public sensibility and the fate which awaits us, if we had not been recently unhappily taught in this country, we may learn from the same author. "The finances of the state were exhausted, new impositions were devised, and a number of new offices created and sold. Against the last named abuse the Parliament ventured to remonstrate; but the government of the cardinal had for its first principle despotism, and the refractory members were punished, some with exile, some with suspension of their functions. All were forced to comply with his will, and the Parliament, unable to resist, yielded, step by step, to his exactions."

The other precedent is supplied by the archives of the democracy of Pennsylvania, in 1816, when it was genuine and unmixed with any other ingredient.

The provisions of the constitution of the United States and of Pennsylvania, in regard to the obligation to keep a journal, are substantially the same. That of the United States requires that "each house shall keep a journal of its proceedings, and from time to time publish the same, except such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of the members present, be entered on the journal." And that of Pennsylvania is, "each house shall keep a journal of its proceedings, and publish them weekly, except such parts as require secrecy, and the yeas and nays of the members, on any question shall, at the desire of any two of them, be entered on the journals." Whatever inviolability, therefore, is attached to a journal, kept in conformity with the one constitution, must be equally stamped on that kept under the other. On the 10th of February, 1816, in the House of Representatives of Pennsylvania, "the speaker informed the House that a constitutional question being involved in a decision by him yesterday, on a motion to expunge certain proceedings from the journal, he was desirous of having the opinion of the house on that decision, viz: that a majority can expunge from the journal any proceedings *in which the yeas and nays have not been called.*" Whereupon Mr. Holgate and Mr. Smith appealed from said decision; and on the question, is the speaker right in his decision? The members present voted as follows: yeas three, nays seventy-eight. Among the latter are to be found the two senators now representing in this body the state of Pennsylvania. On the same day a motion was made by one of them, (Mr. Buchanan) and Mr. Kelly, and read as follows: "Resolved, That in the opinion of this house no part of the journals of the house can be expunged even by unanimous consent."

The Senate observes that the question arose in a case where

there were but four members out of eighty-two that thought it was competent to the House to expunge. Had the yeas and nays been called and recorded, as they were on the resolution of March, 1834, there would not have been a solitary vote in the House of Representatives of Pennsylvania in support of the power of expunging.—And if you can expunge the resolution, why may you not expunge also the recorded yeas and nays attached to it?

But if the matter of expunction be contrary to the truth of the case, reproachful for its base subserviency, derogatory from the just and necessary powers of the Senate, and repugnant to the constitution of the United States, the manner in which it is proposed to accomplish this dark deed is also highly exceptionable. The expunging resolution, which is to blot out or enshroud the four or five lines in which the resolution of 1834 stands recorded, or rather the recitals by which it is preceded, are spun out into a thread of enormous length. It runs, whereas, and whereas, and whereas, and whereas, &c., into a formidable array of nine several whereases. One who should have the courage to begin to read them, unaware of what was to be their termination, would think that at the end of such a tremendous display he must find the very devil. It is like a kite or a comet, except that the order of nature is inverted, and the tail, instead of being behind, is before the body to which it is appended.

I shall not trespass on the Senate by inquiring into the truth of all the assertions of fact and of principle contained in these recitals. It would not be difficult to expose them all, and to show that not one of them has more than a colorable foundation. It is asserted by one of them that the President was put upon his trial, and condemned, unheard, by the Senate, in 1834. Was that true? Was it a trial? Can the majority now assert, upon their oaths, and in their consciences, that there was any trial or condemnation? During the warmth of debate, senators might endeavor to persuade themselves and the public that the proceeding of 1834 was, in its effects and consequences, a trial, and would be a condemnation of the President; but now, after the lapse of near three years, when the excitement arising from an animated discussion has passed away, it is marvellous that any one should be prepared to assert that an expression of the opinion of the Senate upon the character of an executive act was an arraignment, trial and conviction of the President of the United States!

Another fact, asserted in one of those recitals, is, that the resolution of 1834, in either of the forms in which it was originally presented, or subsequently modified prior to the final shape which it assumed when adopted, would have been rejected by a majority of the Senate. What evidence is there in support of this assertion? None. It is, I verily believe directly contrary to the fact. In either of the modifications of the resolution, I have not a doubt that it would have passed! They were all



made in that spirit of accommodation by which the mover of the resolution has ever regulated his conduct as a member of a deliberative body. In not one single instance did he understand from any senator at whose request he made the modification, that, without it, he would vote against the resolution. How, then, can even the senators, who were of the minority of 1834, undertake to make the assertion in question? How can the new senators, who have come here since, pledge themselves to the fact asserted, in the recital of which they could not have had any conusance? But all the members of the majority—the veterans and the raw recruits—the six years men and six weeks men—are required to concur in this most unfounded assertion, as I believe it to be. I submit it to one of the latter (looking toward Mr. Dana, from Maine, here by a temporary appointment from the executive), whether, instead of inundating the Senate with a torrent of fulsome and revolting adulation poured on the President, it would not be wiser and more patriotic to illustrate the brief period of his senatorial existence by some great measure fraught with general benefit to the whole Union? Or, if he will not or cannot elevate himself to a view of the interest of the entire country, whether he had not better dedicate his time to an investigation into the causes of an alien jurisdiction being still exercised over a large part of the territory of the state which he represents? And why the American carrying trade to the British colonies, in which his state was so deeply interested, has been lost by a most improvident and bungling arrangement?

Mr. President, what patriotic purpose is to be accomplished by this expunging resolution! What new honor or fresh laurels will it win for our common country? Is the power of the Senate so vast that it ought to be circumscribed, and that of the President so restricted that it ought to be extended? What power has the Senate? None separately. It can only act jointly with the other house, or jointly with the executive. And although the theory of the constitution supposes, when consulted by him, it may freely give an affirmative or negative response, according to the practice, as it now exists, it has lost the faculty of pronouncing the negative monosyllable. When the Senate expresses its deliberate judgment, in the form of resolution, that resolution has no compulsory force, but appeals only to the dispassionate intelligence, the calm reason, and the sober judgment of the community. The Senate has no army, no navy, no patronage, no lucrative offices, nor glittering honors to bestow. Around us there is no swarm of greedy expectants, rendering us homage, anticipating our wishes, and ready to execute our commands.

How is it with the President? Is he powerless? He is felt from one extremity to the other of this vast republic. By means of principles which he has introduced, and innovations which he has made in our institutions, alas! but too much countenanced

the yeas and nays had not been called. Even in such a case by Congress and a confiding people, he exercises uncontrolled the power of the state. In one hand he holds the purse, and in the other brandishes the sword of the country. Myriads of dependents and partizans, scattered over the land, are ever ready to sing hosannas to him, and to laud to the skies whatever he does. He has swept over the government, during the last eight years, like a tropical tornado. Every department exhibits traces of the ravages of the storm. Take, as one example, the Bank of the United States. No institution could have been more popular with the people, with Congress, and with state legislatures. None ever better fulfilled the great purposes of its establishment. But it unfortunately incurred the displeasure of the President; he spoke, and the bank lies prostrate. And those who were loudest in its praise are now loudest in its condemnation. What object of his ambition is unsatisfied? When disabled from age any longer to hold the sceptre of power, he designates his successor, and transmits it to his favorite! What more does he want? Must we blot, deface and mutilate the records of the country to punish the presumptuousness of expressing an opinion contrary to his own.

What patriotic purpose is to be accomplished by this expunging resolution? Can you make that not to be which has been? Can you eradicate from memory and from history the fact that in March, 1834, a majority of the Senate of the United States passed the resolution which excites your enmity? Is it your vain and wicked object to arrogate to yourselves that power of annihilating the past which has been denied to Omnipotence itself? Do you intend to thrust your hands into our hearts and to pluck out the deeply rooted convictions which are there? Or is it your design merely to stigmatize us? You cannot stigmatize US.

**"Ne'er yet did base dishonor blur our name."**

Standing securely upon our conscious rectitude, and bearing aloft the shield of the constitution of our country, your puny efforts are impotent, and we defy all your power. Put the majority of 1834 in one scale, and that by which this expunging resolution is to be carried in the other, and let truth and justice, in heaven above, and on earth below, and liberty and patriotism, decide the preponderance.

What patriotic purpose is to be accomplished by this expunging resolution? Is it to appease the wrath and to heal the wounded pride of the chief magistrate? If he be really the hero that his friends represent him he must despise all mean condescension, all grovelling sycophancy, all self-degradation, and self-abasement. He would reject, with scorn and contempt, as unworthy of his fame, your black scratches, and your baby lines in the fair records of his country. Black lines! Black lines!

Sir, I hope the secretary of the Senate will preserve the pen with which he may inscribe them, and present it to that senator of the majority whom he may select, as a proud trophy, to be transmitted to his descendants. And hereafter, when we shall lose the forms of our free institutions, all that now remain to us, some future American monarch, in gratitude to those by whose means he has been enabled, upon the ruins of civil liberty, to erect a throne, and to commemorate especially this expunging resolution, may institute a new order of knighthood, and confer on it the appropriate name of the knight of the black lines.

But why should I detain the Senate or needlessly waste my breath in fruitless exertions. The decree has gone forth. It is one of urgency, too. The deed is to be done—that foul deed like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out. Proceed, then, to the noble work which lies before you, and like other skilful executioners, do it quickly. And when you have perpetrated it, go home to the people, and tell them what glorious honors you have achieved for our common country. Tell them that you have extinguished one of the brightest and purest lights that ever burnt at the altar of civil liberty. Tell them that you have silenced one of the noblest batteries that ever thundered in defence of the constitution, and bravely spiked the cannon. Tell them that, henceforward, no matter what daring or outrageous act any President may perform, you have forever hermetically sealed the mouth of the Senate. Tell them that he may fearlessly assume what power he pleases, snatch from its lawful custody the public purse, command a military detachment to enter the halls of the capitol, overawe Congress, trample down the constitution, and raze every bulwark of freedom; but that the Senate must stand mute, in silent submission, and not dare to raise its opposing voice. That it must wait until a House of Representatives, humbled and subdued like itself, and a majority of it composed of the partizans of the President, shall prefer articles of impeachment. Tell them, finally, that you have restored the glorious doctrine of passive obedience and non-resistance, and, if the people do not pour out their indignation and imprecations, I have yet to learn the character of American freemen.

## ON THE SUB-TREASURY.

*Delivered in the Senate of the United States, February 19th, 1838.*

Mr. Clay, of Kentucky, rose and addressed the Senate as follows: I have seen some public service, passed through many troubled times, and often addressed public assemblies, in this capitol and elsewhere; but never before have I risen in a deliberative body, under more oppressed feelings, or with a deeper sense of awful responsibility. Never before have I risen to express my opinions upon any public measure fraught with such tremendous consequences to the welfare and prosperity of the country, and so perilous to the liberties of the people, as I solemnly believe the bill under consideration will be. If you knew, sir, what sleepless hours reflection upon it has cost me; if you knew with what fervor and sincerity I have implored Divine assistance to strengthen and sustain me in my opposition to it, I should have credit with you, at least, for the sincerity of my convictions, if I shall be so unfortunate as not to have your concurrence as to the dangerous character of the measure. And I have thanked my God that he has prolonged my life until the present time, to enable me to exert myself in the service of my country, against a project far transcending, in pernicious tendency, any that I have ever had occasion to consider. I thank him for the health I am permitted to enjoy; I thank him for the soft and sweet repose which I experienced last night; I thank him for the bright and glorious sun which shines upon us this day.

It is not my purpose, at this time, Mr. President, to go at large into a consideration of the causes which have led to the present most disastrous state of public affairs. That duty was performed by others, and myself, at the extra session of Congress. It was then clearly shown that it sprung from the ill-advised and unfortunate measures of executive administration. I now will content myself with saying that, on the 4th day of March, 1829, Andrew Jackson, not by the blessing of God, was made President of the United States; that the country then was eminently prosperous; that its currency was as sound and safe as any that a people were ever blessed with; that, throughout the wide extent of this whole Union, it possessed a uniform value; and that exchanges were conducted with such regularity and perfection, that funds could be transmitted from one extremity of the Union to the other, with the least possible risk or loss. In this encouraging condition of the business of the country, it remained for several years, until after the war, wantonly waged against the late bank of the United States, was completely successful, by the overthrow of that invaluable institution. What our present situation is, it is as needless to describe

as it is painful to contemplate. First felt in our great commercial marts, distress and embarrassment have penetrated into the interior, and now pervade almost the entire Union. It has been justly remarked, by one of the soundest and most practical writers that I have had occasion to consult, that "all convulsions in the circulation and commerce of every country must originate in the operation of the government, or in the mistaken views and erroneous measures of those possessing the power of influencing credit and circulation; for they are not otherwise susceptible of convulsion, and, if left to themselves, they will find their own level, and flow nearly in one uniform stream."

Yes, Mr. President, we all have but too melancholly a consciousness of the unhappy condition of our country. We all too well know that our noble and gallant ship lies helpless and immovable upon breakers, dismasted, the surge beating over her venerable sides, and the crew threatened with instantaneous destruction. How came she there? Who was the pilot at the helm when she was stranded? The party in power! The pilot was aided by all the science and skill, by all the charts and instruments of such distinguished navigators as Washington, the Adamses, Jefferson, Madison and Monroe; and yet he did not, or could not, save the public vessel. She was placed in her present miserable condition by his bungling navigation, or by his want of skill and judgment. It is impossible for him to escape from one or the other horn of that dilemma. I leave him at liberty to choose between them.

I shall endeavor, Mr. President, in the course of the address I am about making, to establish certain propositions, which I believe to be incontestible; and, for the sake of perspicuity, I will state them severally to the Senate. I shall contend—

1st. That it was the deliberate purpose and fixed design of the late administration to establish a government bank—a treasury bank—to be administered and controlled by the executive department.

2d. That, with that view, and to that end, it was its aim and intention to overthrow the whole banking system, as existing in the United States when the administration came into power, beginning with the bank of the United States, and ending with the state banks.

3d. That the attack was first confined, from considerations of policy, to the bank of the United States; but that, after its overthrow was accomplished, it was then directed, and has since been continued, against the state banks.

4th. That the present administration, by its acknowledgements, emanating from the highest and most authentic source, has succeeded to the principles, plans and policy of the preceding administration, and stands solemnly pledged to complete and perfect them.

And, 5th. That the bill under consideration is intended to execute the pledge, by establishing, upon the ruins of the late

bank of the United States, and the state banks, a government bank, to be managed and controlled by the treasury department, acting under the commands of the President of the United States.

I believe, solemnly believe, the truth of every one of these five propositions. In the support of them, I shall not rely upon any gratuitous surmises or vague conjectures, but upon proofs, clear, positive, undeniable and demonstrative. To establish the first four, I shall adduce evidence of the highest possible authenticity, or facts admitted or undeniable, and fair reasoning founded on them. And as to the last, the measure under consideration, I think the testimony, intrinsic and extrinsic, on which I depend, stamps, beyond all doubt, its true character as a government bank, and ought to carry to the mind of the Senate the conviction which I entertain, and in which I feel perfectly confident the whole country will share.

1. My first proposition is, that it was the deliberate purpose and fixed design of the late administration to establish a government bank—a treasury bank—to be administered and controlled by the executive department. To establish its truth, the first proof which I offer is the following extract from President Jackson's annual message of December, 1829:

"The charter of the bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy, in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too *soon* present it to the consideration of the Legislature and the people. Both the constitutionality and the expediency of the law creating this bank are *well questioned by a large portion of our fellow-citizens*; and it must be *admitted by all* that it has failed in the great end of establishing a uniform and sound currency.

"Under these circumstances, if such an institution is deemed essential to the fiscal operations of the government, *I submit to the wisdom of the Legislature*, whether a national one, founded upon *the credit of the government and its revenues*, might not be devised, which would avoid all constitutional difficulties, and, at the same time, secure all the advantages to the government and the country that were expected to result from the present bank."

This was the first open declaration of that implacable war against the late bank of the United States, which was afterwards waged with so much ferocity. It was the sound of the distant bugle to collect together the dispersed and scattered forces, and prepare for battle. The country saw with surprise the statement that "the constitutionality and expediency of the law creating this bank are well questioned *by a large portion of our fellow-citizens*," when, in truth and in fact, it was well known that but

few then doubted the constitutionality, and none the expediency of it. And the assertion excited much greater surprise, that "it must be *admitted by all* that it has failed in the great end of establishing a uniform and sound currency." In this message, too, whilst a doubt is intimated as to the utility of such an institution, President Jackson clearly first discloses his object to establish a national one, founded upon the *credit of the government and its revenues*. His language is perfectly plain and unequivocal.—Such a bank, founded upon the credit of the government and its revenues, would secure all the advantages to the government and the country, he tells us, that were expected to result from the present bank.

In his annual message of the ensuing year, the late President says:

"The importance of the principles involved in the inquiry, whether it will be proper to recharter the bank of the United States, requires that I should again call the attention of Congress to the subject. Nothing has occurred to lessen in any degree the dangers which many of our citizens apprehended from that institution, as at *present organized*. In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire *whether it be not possible to secure the advantages afforded by the present bank, through the agency of a bank of the United States, so modified in its principles* as to obviate constitutional and other objections.

"It is thought practicable to organize such a bank, with the necessary officers, *as a branch of the treasury department*, based on the public and individual deposits, without power to make loans or purchase property, which shall remit the funds of the government; and the expense of which may be paid, if thought advisable, by allowing its officers to *sell bills of exchange* to private individuals at a moderate premium. Not being a corporate body, having no stockholders, debtors and property, and but few officers, it would not be obnoxious to the constitutional objections which are urged against the present bank; and having no means to operate on the hopes, fears, or interests of large masses of the community, it would be shorn of the influence which makes that bank formidable."

In this message, President Jackson, after again adverting to the imaginary dangers of a bank of the United States, recurs to his favorite project, and inquires "whether it be not possible to secure the advantages afforded by the present bank, through the agency of a bank of the United States, so modified in its principles and structure as to obviate constitutional and other objections. And to dispel all doubts of the timid, and to confirm the wavering, he declares that it is thought practicable to organize such a bank, with the necessary officers, *as a branch of the treasury department*. *As a branch of the treasury department!* The very scheme now under consideration. And, to defray the expenses of such an anomalous institution, he suggests that the



officers of the treasury department may turn bankers and brokers, and sell bills of exchange to private individuals at a moderate premium!

In his annual message of the year 1831, upon this subject, he was brief and somewhat covered in his expressions. But the fixed purpose which he entertained is sufficiently disclosed to the attentive reader. He announces that,

“Entertaining the opinions heretofore expressed in relation to the bank of the United States, as at present organized, I felt it my duty, in my former messages, frankly to disclose them, in order that the attention of the legislature and the people should be seasonably directed to that important subject, and that it might be considered, and finally disposed of, in a manner best calculated to promote the ends of the constitution, and subserve the public interests.”

What were the opinions ‘heretofore’ expressed we have clearly seen. They were adverse to the bank of the United States, as at present organized, that is to say, an organization with any independent corporate government; and in favor of a national bank, which should be so constituted as to be subject to exclusive executive control.

At the session of 1831-’32, the question of the re-charter of the bank of the United States came up; and although the attention of Congress and the country had been repeatedly and deliberately before invited to the consideration of it by President Jackson himself, the agitation of it was now declared by him and his partizans to be precipitate and premature. Nevertheless, the country and Congress, conscious of the value of a safe and sound uniform currency, conscious that such a currency had been eminently supplied by the bank of the United States, and, unmoved by all the outcry raised against that admirable institution, the re-charter commanded large majorities in both houses of Congress. Fatally for the interests of this country, the stern self-will of General Jackson prompted him to risk every thing upon its overthrow. On the 10th of July, 1832, the bill was returned with his veto: from which the following extract is submitted to the attentive consideration of the Senate.

“A bank of the United States is, in many respects, convenient for the government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the constitution, subversive of the rights of the states, and dangerous to the liberties of the people, I felt it my duty, at an early period of my administration, to call the attention of Congress to the practicability of organizing an institution, combining all its advantages, and obviating these objections. I sincerely regret that, in the act before me, I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the constitution of our country.”

“That a bank of the United States, competent to all the duties which may be required by government, might be so organized as not to infringe upon our own delegated powers, or the reserved rights of the states, I do not entertain a doubt. Had the executive been called upon to furnish *the project of such an institution the duty would have been cheerfully performed.* In the absence of such a call, it is obviously proper that he should confine himself to pointing out those prominent features in the act presented, which in his opinion, make it incompatible with the constitution and sound policy.”

President Jackson admits, in the citation which has just been made, that a bank of the United States is, in many respects, convenient for the government; and reminds Congress that he had, at an early period of his administration, called its attention to the practicability of so organizing such an institution as to secure all its advantages, without the defects of the existing bank. It is perfectly manifest that he alludes to his previous recommendations of a government—a treasury bank. In the same message he tells Congress, that if he had been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. Thus it appears that he had not only settled in his mind the general principle, but had adjusted the details of a government bank, to be subjected to executive control; and Congress is even chided for not calling upon him to present them. The bill now under consideration, beyond all controversy, is the very project which he had in view, and is to consummate the work which he began. I think, Mr. President, that you must now concur with me in considering the first proposition as fully maintained. I pass to the second and third, which, on account of their intimate connexion, I will consider together.

2. That, with a view of establishing a government bank, it was the settled aim and intention of the late administration to overthrow the whole banking system of the United States, as existing in the United States when that administration came into power, beginning with the bank of the United States, and ending with the state banks.

3. That the attack was first confined, from considerations of policy, to the bank of the United States; but that, after its overthrow was accomplished, it was then directed, and has since been continued, against the state banks.

We are not bound to inquire into the motives of President Jackson for desiring to subvert the established monetary and financial system which he found in operation; and yet some examination into those which probably influenced his mind is not without utility. These are to be found in his peculiar constitution and character. His egotism and vanity prompted him to subject every thing to his will; to change, to remould, and retouch every thing. Hence the proscription which characterized his administration, the universal expulsion from office, at home

and abroad, of all who were not devoted to him, and the attempt to render the executive department of government, to use a favorite expression of his own, a complete "unit." Hence his seizure of the public deposits in the bank of the United States, and his desire to unite the purse with the sword. Hence his attack upon all the systems of policy which he found in practical operation—on that of internal improvements, and on that of the protection of national industry. He was animated by the same sort of ambition which induced the master-mind of the age, Napoleon Bonaparte, to impress his name upon every thing in France. When I was in Paris, the sculptors were busily engaged chiseling out the famous N., so odious to the Bourbon line, which had been conspicuously carved in the palace of the Tuilleries, and on other public edifices and monuments in the proud capital of France. When, Mr. President, shall we see effaced all traces of the ravages committed by the administration of Andrew Jackson? Society has been uprooted, virtue punished, vice rewarded, and talents and intellectual endowments despised; brutality, vulgarism, and loco-focoism upheld, cherished, and countenanced. Ages will roll around before the moral and political ravages which have been committed, will, I fear, cease to be discernable. General Jackson's ambition was to make his administration an era in the history of the American government, and he has accomplished that object of his ambition; but I trust that it will be an era to be shunned as sad and lamentable, and not followed and imitated as supplying sound maxims and principles of administration.

I have heard his hostility to banks ascribed to some collision which he had with one of them, during the late war, at the city of New Orleans; and it is possible that may have had some influence upon his mind. The immediate cause, more probably, was the refusal of that perverse and unaccommodating gentleman, Nick Biddle, to turn out of the office of president of the New Hampshire branch of the bank of the United States, at the instance of his excellency Isaac Hill, in the summer of 1829, that giant-like person, Jeremiah Mason—giant in body, and giant in mind. War and strife, endless war and strife, personal or national, foreign or domestic, were the aliment of the late President's existence. War against the bank, war against France, and strife and contention with a countless number of individuals. The wars with Black Hawk and the Seminoles were scarcely a luncheon for his voracious appetite. And he made his exit from public life, denouncing war and vengeance against Mexico and the state banks.

My acquaintance with that extraordinary man commenced in this city, in the fall of 1815 or 1816. It was short, but highly respectful, and mutually cordial. I beheld in him the gallant and successful general, who, by the glorious victory of New Orleans, had honorably closed the second war of our indepen-

dence, and I paid him the homage due to 'that eminent service. A few years after, it became my painful duty to animadvert, in the House of Representatives, with the independence which belongs to the Representative character, upon some of his proceedings in the conduct of the Seminole war, which I thought illegal and contrary to the constitution and the law of nations. A non-intercourse between us ensued, which continued until the fall of 1824, when, he being a member of the Senate, an accommodation between us was sought to be brought about by the principal part of the delegation from his own state. For that purpose, we were invited to dine with them at Claxton's boarding house, on Capitol Hill, where my venerable friend from Tennessee, (Mr. White) and his colleague on the Spanish commission, were both present. I retired early from dinner, and was followed to the door by General Jackson and the present minister of the United States at the Court of Madrid. They pressed me earnestly to take a seat with them in their carriage. My faithful servant and friend, Charles, was standing at the door waiting for me, with my own. I yielded to their urgent politeness, directed Charles to follow with my carriage, and they sot me down at my own door. We afterwards frequently met, with mutual respect and cordiality; dined several times together, and reciprocated the hospitality of our respective quarters. This friendly intercourse continued until the election, in the House of Representatives, of a President of the United States came on in February, 1825. I gave the vote which, in the contingency that happened, I told my colleague, (Mr. Crittenden,) who sits before me, prior to my departure from Kentucky, in November, 1824, and told others, that I should give. All intercourse ceased between General Jackson and myself. We have never since, except once accidentally, exchanged salutations, nor met, except on occasions when we were performing the last offices towards deceased members of Congress, or other offices of government. Immediately after my vote, a rancorous war was commenced against me, and all the barking dogs let loose upon me. I shall not trace it during its ten years' bitter continuance. But I thank my God that I stand here, firm and erect, unbent, unbroken, unsubdued, unawed, and ready to denounce the mischievous measures of this administration, and ready to denounce this, its legitimate offspring, the most pernicious of them all.

His administration consisted of a succession of astounding measures, which fell on the public ear like repeated bursts of loud and appalling thunder. Before the reverberations of one peal had ceased, another and another came, louder and louder, and more terrifying. Or rather, it was like a volcanic mountain, emitting frightful eruptions of burning lava. Before one was cold and crusted, before the voice of the inhabitants of buried villages and cities were hushed in eternal silence, another, more desolating, was vomited forth, extending wider and wider the circle of death and destruction.

Mr. President, this is no unnecessary digression. The personal character of such a chief as I have been describing, his passions, his propensities, the character of his mind, should be all thoroughly studied, to comprehend clearly his measures, and his administration. But I will now proceed to more direct and strict proofs of my second and third propositions. That he was resolved to break down the bank of the United States, is proven by the same citations from his messages which I have made, to exhibit his purpose to establish a treasury bank, is proven by his veto message, and by the fact that he did destroy it. The war against all other banks was not originally announced, because he wished the state banks to be auxiliaries in overthrowing the bank of the United States, and because such an annunciation would have been too rash and shocking upon the people of the United States for even his tremendous influence. It was necessary to proceed in the work with caution, and to begin with that institution against which could be embodied the greatest amount of prejudice. The refusal to re-charter the bank of the United States was followed by a determination to remove from its custody the public money of the United States. That determination was first whispered in this place, denied, again intimated, and finally, in September, 1833, executed. The agitation of the American public which ensued, the warm and animated discussions in the country and in Congress, to which that unconstitutional measure gave rise, are all fresh in our recollection. It was necessary to quiet the public mind, and to reconcile the people to what had been done, before President Jackson seriously entered upon his new career of hostility to the state banks. At the commencement of the session of Congress, in 1834, he imagined a sufficient calm had been produced, and, in his annual message of that year, the war upon the state banks was opened. In that message he says:

“It seems due to the safety of the public funds remaining in that bank, and to the honor of the American people, that measures be taken to separate the government entirely from an institution so mischievous to the public prosperity, and so regardless of the constitution and laws. By transferring the public deposits, by appointing other pension agents, as far as it had the power, by ordering the discontinuance of the receipt of bank checks in payment of the public dues after the first day of January next, the executive has exerted all its lawful authority to sever the connexion between the government and this faithless corporation.”

In this quotation it will be seen that the first germ is contained of that separation and divorce of the government from banks, which has recently made such a conspicuous figure. It relates, it is true, to the late bank of the United States, and he speaks of separating and severing the connexion between the government and that institution. But the idea, once developed, was easily susceptible of application to all banking institutions.

In the message of the succeeding year, his meditated attack upon the state banks is more distinctly disclosed. Speaking of a sound currency he says :

"In considering the means of obtaining so important an end, [that is, a sound currency,] we must set aside all calculations of temporary convenience, and be influenced by those only that are in harmony with the true character and permanent interests of the republic. We must recur to first principles, and see what it is that has prevented the legislation of Congress and the states on the subject of currency from satisfying the public expectation, and realizing results corresponding to those which have attended the action of our system when truly consistent with the great principle of equality upon which it rests, and with that spirit of forbearance and mutual concession and generous patriotism which was originally, and must ever continue to be, the vital element of our Union.

"On this subject, I am sure that I cannot be mistaken in ascribing our want of success to the undue countenance which has been afforded to the spirit of monopoly. All the serious dangers which our system has yet encountered may be traced to the resort to implied powers, and the use of corporations clothed with privileges, the effect of which is to advance the interests of the few at the expense of the many. We have felt but one class of these dangers, exhibited in the contest waged by the bank of the United States against the government for the last four years. Happily, they have been obviated for the present by the indignant resistance of the people ; but we should recollect that the principle whence they sprang is an ever-active one, which will not fail to renew its efforts in the same and in other forms, so long as there is a hope of success, founded either on the inattention of the people, or the treachery of their representatives to the subtle progress of its influence."

\* \* \* "We are now to see whether, in the present favorable condition of the country, we cannot take an effectual stand against this spirit of monopoly, and practically prove, in respect to the currency, as well as other important interests, that there is no necessity for so extensive a resort to it as that which has been heretofore practised."

\* \* \* "It has been seen that without the agency of a great monied monopoly the revenue can be collected, and conveniently and safely applied to all the purposes of the public expenditure. It is also ascertained that, instead of being necessarily made to promote the evils of an unchecked paper system, the management of the revenue can be made auxiliary to the reform which the legislatures of several of the states have already commenced in regard to the suppression of small bills ; and which has only to be fostered by proper regulations on the part of Congress, to secure a practical return, to the extent required for the security of the currency, to the constitutional medium."

As in the instance of the attack upon the bank of the United States, the approach to the state banks is slow, cautious and insidious. He reminds Congress and the country that all calculations of temporary convenience must be set aside; that we must recur to first principles; and that we must see what it is that has prevented legislation of Congress and the states on the subject of the currency from satisfying public expectation. He declares his conviction that the want of success has proceeded from undue countenance which has been afforded to the spirit of monopoly. All the serious dangers which our system has yet encountered, may be traced to the resort to implied powers, and to the use of corporations. We have felt, he says, but one class of these dangers in the contest with the bank of the United States, and he clearly intimates that the other class is the state banks. We are now to see, he proceeds, whether, in the present favorable condition of the country, we cannot take an effectual stand against this spirit of monopoly. Reverting to his favorite scheme of a government bank, he says it is ascertained that, instead of being made necessary to promote the evils of an unchecked paper system, the management of the revenue can be made auxiliary to the reform which he is desirous to introduce. The designs of President Jackson against the state banks are more fully developed and enlarged upon in his annual message of 1836, from which I beg leave to quote the following passages:

“I beg leave to call your attention to another subject intimately associated with the preceding one—the currency of the country.

“It is apparent, from the whole context of the constitution, as well as the history of the times that gave birth to it, that it was the purpose of the convention to establish a currency consisting of the precious metals. These, from their peculiar properties, which rendered them the standard of value in all other countries, were adopted in this, as well to establish its commercial standard, in reference to foreign countries, by a permanent rule, as to exclude the use of a mutable medium of exchange, such as of certain agricultural commodities, recognized by the statutes of some states as a tender for debts, or the still more pernicious expedient of a paper currency.

“Variableness must ever be the characteristic of a currency of which the precious metals are not the chief ingredient, or which can be expanded or contracted without regard to the principles that regulate the value of those metals as a standard in the general trade of the world. With us, bank issues constitute such a currency, and must ever do so, until they are made dependent on those just proportions of gold and silver, as a circulating medium, which experience has proved to be necessary, not only in this, but in all other commercial countries.—Where those proportions are not infused into the circulation, and do not control it, it is manifest that prices must vary according to the tide of bank issues, and the value and stability



of property must stand exposed to all the uncertainty which attends the administration of institutions that are constantly liable to the temptation of an interest distinct from that of the community in which they are established."

"But, although various dangers to our republican institutions have been obviated by the failure of that bank to extort from the government a renewal of its charter, it is obvious that little has been accomplished, except a salutary change of public opinion, towards restoring to the country the sound currency provided for in the constitution. In the acts of several of the states prohibiting the circulation of small notes, and the auxiliary enactments of Congress at their last session, forbidding their reception or payment on public account, the true policy of the country has been advanced, and a larger portion of the precious metals infused into our circulating medium. These measures will probably be followed up in due time by the enactment of state laws, banishing from circulation bank notes of still higher denominations; and the object may be materially promoted by further acts of Congress, forbidding the employment, as fiscal agents, of such banks as issue notes of low denominations, and throw impediments in the way of the circulation of gold and silver."

"The effects of an extension of *bank credits* and over-issues of bank paper, have been strikingly illustrated in the sales of the public lands. From the returns made by the various registers and receivers in the early part of last summer, it was perceived that the receipts arising from the sales of public lands were increasing to an unprecedented amount. In effect, however, these receipts amount to nothing more than credits in banks. The banks lent out their notes to speculators; they were paid to the receivers, and immediately returned to the banks, to be lent out again and again, being mere instruments to transfer to speculators the most valuable public land, and pay the government by a credit on the books of the banks. Those credits on the books of some of the western banks, usually called deposits, were already greatly beyond their immediate means of payment, and were rapidly increasing. Indeed, each speculation furnished means for another; for no sooner had one individual or company paid in the notes, than they were immediately lent to another for a like purpose; and the banks were extending their business and their issues so largely as to alarm considerate men, and render it doubtful whether *these bank credits, if permitted to accumulate, would ultimately be of the least value to the government.* The spirit of expansion and speculation was not confined to the deposit banks, but pervaded the whole multitude of banks throughout the Union, and was giving rise to new institutions to aggravate the evil.

"The safety of the public funds, and the interest of the people generally, required that these operations should be checked; and it became the duty of every branch of the general and

the governments to adopt all legitimate and proper means to produce that salutary effect. Under this view of my duty, I directed the issuing of the order, which will be laid before you by the Secretary of the Treasury, requiring payment of the public lands sold to be made in specie, with an exception until the fifteenth of the present month in favor of actual settlers.— This measure has produced many salutary consequences. It checked the career of the western banks, and gave them additional strength in anticipation of the pressure which has since pervaded our eastern as well as the European commercial cities. By preventing the expansion of the credit system, it measurably cut off the means of speculation, and retarded its progress in monopolizing the most valuable of the public lands. It has tended to save the new states from a non-resident proprietorship—one of the greatest obstacles to the advancement of a new country and the prosperity of an old one. It has tended to keep open the public lands for entry by emigrants at government prices, instead of their being compelled to purchase of speculators at double or treble prices. And it is conveying into the interior large sums in silver and gold, there to enter permanently into the currency of the country, and place it on a firmer foundation. It is confidently believed that the country will find, in the motives which induced that order, and the happy consequences which have ensued, much to commend and nothing to condemn.”

It is seen that he again calls the attention of Congress to the currency of the country, alledges that it was apparent from the whole context of the constitution, as well as the history of the times that gave birth to it, that it was the purpose of the convention to establish a currency consisting of the *precious metals*; imputes variableness and a liability to inordinate contraction and expansion to the existing paper system, and denounces bank issues as being an uncertain standard. He felicitates himself upon the dangers which have been obviated by the overthrow of the bank of the United States, but declares that little has been yet done, except to produce a salutary change of public opinion towards restoring to the country the sound currency *provided for in the constitution*. I will here say, in passing, that all this outcry about the precious metals, gold, and the constitutional currency, has been put forth to delude the people, and to use the precious metals as an instrument to break down the banking institutions of the states, and to thus pave the way for the ultimate establishment of a great government bank. In the present advanced state of civilization, in the present condition of the commerce of the world, and in the actual relations of trade and intercourse between the different nations of the world, it is perfectly chimerical to suppose that the currency of the United States should consist exclusively, or principally, of the precious metals.

In the quotations which I have made from the last annual message of General Jackson, he speaks of the extension of bank

credits, and the over-issues of bank paper, in the operations upon the sales of public lands. In his message of only the preceding year, the vast amount of those sales had been dwelt upon with peculiar complaisance, as illustrating the general prosperity of the country, and as proof of the wisdom of his administration. But now that which had been announced as a blessing is deprecated as a calamity. Now, his object being to assail the banking institutions of the states, and to justify that fatal treasury order, which I shall hereafter have occasion to notice, he expresses his apprehension of the danger to which we are exposed of losing the public domain, and getting nothing for it but *bank credits*. He describes, minutely, the circular process by which the notes of the banks passed out of those institutions to be employed in the purchase of the public lands, and returned again to them in the form of credits to the government. He forgets that Mr. Secretary Taney, to reconcile the people of the United States to the daring measure of removing the public deposits, had stimulated the banks to the exercise of great liberality in the grant of loans. He informs us, in that message, that the safety of the public funds, and the interests of the people generally, required that these copious issues of the banks should be checked, and that the conversion of the public lands into mere bank credits should be arrested. And his measure to accomplish these objects was that famous treasury order, already adverted to. Let us pause here for a moment, and contemplate the circumstances under which it was issued. The principle of the order had been proposed and discussed in Congress. But one Senator, as far as I know, in this branch of the Legislature, and not a solitary member, within my knowledge, in the House of Representatives, was in favor of it. And yet, in about a week after the adjournment of Congress, the principle, which met with no countenance from the legislative authority, was embodied in the form of a treasury edict, and promulgated under the executive authority, to the astonishment of the people of the United States.

If we possessed no other evidence whatever of the hostility of President Jackson to the state banks of the United States, that order would supply conclusive proof. Bank notes, bank issues, bank credits, were distrusted and denounced by him. It was proclaimed to the people that they were unworthy of confidence. The government could no longer trust in their security. And at a moment when the banking operations were extended, and stretched to their utmost tension; when they were almost all tottering and ready to fall, for the want of that metallic basis on which they all rested, the executive announces its distrust, issues the treasury order, and enters the market for specie, by a demand of an extraordinary amount to supply the means of purchasing the public lands. If the sales had continued in the same ratio they had been made during the previous year, that is, at about the rate of twenty-four millions *per annum*, this unpre-

cedented demand created by government for specie must have exhausted the vaults of most of the banks, and produced much sooner the catastrophe which occurred in May last. And, what is more extraordinary, this wanton demand for specie upon all the banks of the commercial capitals, and in the busy and thickly peopled portions of the country, was that it might be transported into the wilderness, and, after having been used in the purchase of public lands, deposited to the credit of the government in the books of western banks, in some of which, according to the message, there were already credits to the government "greatly beyond their immediate means of payment." Government, therefore, did not itself receive, or rather did not retain, the very specie which it professed to demand as the only medium worthy of the public lands. The specie, which was so uselessly exacted, was transferred from one set of banks, to the derangement of the commerce and business of the country, and placed in the vaults of another set of banks in the interior, forming only those bank credits to the government upon which President Jackson placed so slight a value.

Finally, when General Jackson was about to retire from the cares of government, he favored his countrymen with a farewell address. The solemnity of the occasion gives to any opinions which he has expressed in that document a claim to peculiar attention. It will be seen, on perusing it, that he denounces, more emphatically than in any of his previous addresses, the bank paper of the country, corporations, and what he chooses to denominate the spirit of monopoly. The Senate will indulge me in calling its attention to certain parts of that address, in the following extracts:

"The constitution of the United States unquestionably intended to secure to the people a circulating medium of gold and silver. But the establishment of a national bank by Congress, with the privilege of issuing paper money receivable in payment of the public dues, and the unfortunate cause of legislation in the several states upon the same subject, drove from general circulation the constitutional currency, and substituted one of paper in its place."

"The mischief springs from the power which the moneyed interest derives from a paper currency, which they are able to control; from the multitude of corporations, with exclusive privileges, which they have succeeded in obtaining in the different states, and which are employed altogether for their benefit; and unless you become more watchful in your states, and check this spirit of monopoly and thirst for exclusive privileges, you will, in the end, find that the most important powers of government have been given or bartered away, and the control over your dearest interests has passed into the hands of these corporations."

"But it will require steady and persevering exertions on your

part to rid yourselves of the iniquities and mischiefs of the paper system, and to check the spirit of monopoly and other abuses which have sprung up with it, and of which it is the main support. So many interests are united to resist all reform on this subject, that you must not hope that the conflict will be a short one, nor success easy. My humble efforts have not been spared, during my administration of the government, to restore the constitutional currency of gold and silver: and something, I trust, has been done towards the accomplishment of this most desirable object. But enough yet remains to require all your energy and perseverance. The power, however, is in your hands, and the remedy must and will be applied, if you determine upon it."

The mask is now thrown off, and he boldly says that the constitution of the United States *unquestionably* intended to secure to the people a circulating medium of gold and silver.— They have not enjoyed, he says, that benefit, because of the establishment of a national bank, *and the unfortunate course of legislation in the several states*. He does not limit his condemnation of the past policy of his country to the federal government, of which he had just ceased to be the chief, but he extends it to the states also, as if they were incompetent to judge of the interests of their respective citizens. He tells us that the mischief springs from the power which the monied interest derives from a paper currency, which they are able to control, and the multitude of corporations; and he stimulates the people to become more watchful in their several states, to check this spirit of monopoly. To invigorate their fortitude, he tells the people that it will require steady and persevering exertions, on their part, to rid themselves of the *iniquities* and mischiefs of the paper system, and to check the spirit of monopoly. They must not hope that the conflict will be a short one, nor success easy. His humble efforts have not been spared, during his administration, to restore the constitutional currency of gold and silver; and, although he has been able to do something towards the accomplishment of that object, *enough yet remains* to require all the energy and perseverance of the people.

Such, Mr. President, are the proofs and the argument on which I rely to establish the second and third propositions which I have been considering. Are they not successfully maintained? Is it possible that any thing could be more conclusive on such a subject?

I pass to the consideration of the fourth proposition.

4. That the present administration, by acknowledgments emanating from the highest and most authentic source, has succeeded to the principles, plans, and policy, of the preceding administration, and stand solemnly pledged to complete and perfect them.

The proofs on this subject are brief; but they are clear, direct and plenary. It is impossible for any unbiassed mind to doubt for a moment about them. You, sir, will be surprised, when I

shall array them before you, at their irresistible force. The first that I shall offer is an extract from Mr. Van Buren's letter of acceptance of the nomination of the Baltimore convention, dated May 23d, 1835. In that letter he says:

"I content myself, on this occasion, with saying that I consider myself the honored *instrument*, selected by the friends of the present administration, *to carry out its principles and policy*; and that, as well from inclination as from *duty*, I shall, if honored with the choice of the American people, endeavor generally to follow in the footsteps of President Jackson, happy if I shall be able to *perfect the work* which he has so gloriously begun."

Mr. Van Buren announces that he was the honored instrument selected by the friends of the present administration, to carry out its principles and policy. The honored instrument! That word, according to the most approved definition, means *tool*. He was, then, the honored tool—to do what? to promote the honor, and advance the welfare, of the people of the United States, and to add to the glory of his country? No, no; his country was not in his thoughts. Party, party, filled the place in his bosom which country should have occupied. He was the honored tool to carry out the principles and policy of Gen. Jackson's administration; and if elected, he should, as well from inclination as from *duty*, endeavor, generally, to tread in the footsteps of Gen. Jackson—happy if he should be able to perfect the work which he had so gloriously begun. Duty to whom? to the country, to the whole people of the United States? No such thing; but duty to the friends of the then administration; and that duty required him to tread in the footsteps of his illustrious predecessor, and to perfect the work which he had begun! Now, the Senate will bear in mind that the most distinguishing features of Gen. Jackson's administration related to the currency; that he had denounced the banking institutions of the country; that he had overthrown the bank of the United States; that he had declared, when that object was accomplished, only one half the work was completed; that he then commenced a war against the state banks, in order to finish the other half; that he constantly persevered in, and never abandoned, his favorite project of a great government treasury bank; and that he retired from the office of Chief Magistrate, pouring out, in his farewell address, anathemas against paper money, corporations, and the spirit of monopoly. When all these things are recollected, it is impossible not to comprehend clearly what Mr. Van Buren means, by carrying out the principles and policy of the late administration. No one can mistake that those principles and that policy require him to break down the local institutions of the states, and to discredit and destroy the paper medium which they issue. No one can be at a loss to understand that, in following in the footsteps of President Jackson, and in perfecting the work which he begun, Mr. Van Buren means to continue attacking, systematically, the banks of the states, and to erect on their ruins that great government bank,

begun by his predecessor, and which he is the honored instrument selected to complete. The next proof which I shall offer is supplied by Mr. Van Buren's inaugural address, from which I request permission of the Senate to read the following extract:

"In receiving from the people the sacred trust twice confided to my illustrious predecessor, and which he has discharged so faithfully and so well, I know that I cannot expect to perform the arduous task with equal ability and success. But, *united as I have been in his counsels*, a daily witness of his exclusive and unsurpassed devotion to his country's welfare, *agreeing with him in sentiments* which his countrymen have warmly supported, and permitted to partake *largely* of his confidence, I may hope that somewhat of the same cheering approbation will be found to attend upon my path?"

Here we find Mr. Van Buren distinctly avowing, what the American people well knew before, that he had been united in the councils of Gen. Jackson; that he had agreed with him in sentiments, and that he had partaken largely of his confidence. This intimacy and confidential intercourse could not have existed without the concurrence of Mr. Van Buren in all those leading and prominent measures of his friend, which related to the establishment of a government bank, the overthrow of the bank of the United States, the attack upon the state institutions, and the denunciation of the paper currency, the spirit of monopoly, and corporations. Is it credible that General Jackson should have aimed at the accomplishment of all those objects, and entertained all these sentiments, without Mr. Van Buren's participation?

I proceed to another point of powerful evidence, in the conduct of Mr. Van Buren, in respect to the famous treasury order. That order had been promulgated, originally, in defiance of the opinion of Congress, had been continued in operation in defiance of the wishes and will of the people, and had been repealed by a bill passed at the last ordinary session of Congress, by overwhelming majorities. The fate of that bill is well known. Instead of being returned to the house in which it originated, according to the requirement of the constitution, it was sent to one of the pigeon-holes of the department of state, to be filed away with an opinion of a convenient attorney general, always ready to prepare one in support of executive encroachment. On the fifth of March last not a doubt was entertained, as far as my knowledge or belief extends, that Mr. Van Buren would rescind the obnoxious order. I appeal to the Senator from Missouri, who sits near me, (Mr. Linn,) to the Senator from Mississippi, who sits farthest from me, (Mr. Walker,) to the Senator from Alabama, (Mr. King,) and to the whole of the administration Senators, if such was not the expectation of all of them. Was there ever an occasion in which a new administration had so fine an opportunity to signalize its commencement by an act of grace



and wisdom, demanded by the best interests and most anxious wishes of the people? But Mr. Van Buren did not think proper to embrace it. He had shared too largely in the confidence of his predecessor, agreed too fully with him in his councils, to rescind an order which constituted so essential a part of the system which had been deliberately adopted to overthrow the state banks.

Another course pursued by the administration, after the catastrophe of the suspension of specie payments by the banks, demonstrates the hostile purposes towards them of the present administration. When a similar event had occurred during the administration of Mr. Madison, did he discredit and discountenance the issues of the banks, by refusing to receive them in payment of the public dues? Did the state governments, upon the former or the late occasion, refuse to receive them in payment of the dues to them, respectively? And if irredeemable bank notes are good enough for state governments and the people, are they not good enough for the federal government of the same people? By exacting specie, in all payments to the general government, that government presented itself in the market as a powerful and formidable competitor with the banks, demanding specie at a moment when the banks were making unexampled struggles to strengthen themselves, and prepare for the resumption of specie payments. The extent of this government demand for specie does not admit of exact ascertainment; but when we reflect that the annual expenditures of the government were at the rate, including the post-office department, of about thirty-three millions of dollars, and that its income, made up either of taxes or loans, must be an equal sum, making together an aggregate of sixty-six millions, it will be seen that the amount of specie required for the use of government must be immensely large. It cannot be precisely determined, but would not be less probably than fifteen or twenty millions of dollars per annum.—Now, how is it possible for the banks, coming into the specie market in competition with all the vast power and influence of the government, to provide themselves with specie in a reasonable time to resume specie payments? That competition would have been avoided, if, upon the stoppage of the banks, the notes of those of whose solidity there was no doubt, had been continued to be received in payment of the public dues, as was done in Mr. Madison's administration. And why, Mr. President, should they not have been? Why should not this government receive the same description of medium which is found to answer all the purposes of the several state governments? Why should they have resorted to the expedient of issuing an inferior paper medium, in the form of treasury notes, and refusing to receive the better notes of safe and solid banks? Do not misunderstand me, Mr. President. No man is more averse than I am to a permanent inconvertible paper medium. It would have been as a

temporary measure only that I should have thought it expedient to receive the notes of good local banks. If, along with that measure, the treasury order had been repealed, and other measures adopted to encourage and coerce the resumption of specie payments, we should have been much nigher that desirable event than, I fear, we now are. Indeed, I do not see when it is possible for the banks to resume specie payments, as long as the government is in the field making war upon them, and in the market demanding specie.

Another conclusive evidence of the hostility to the state banks, on the part of Mr. Van Buren, is to be found in that extraordinary recommendation of a bankrupt law, contained in his message at the extra session. According to all the principles of any bankrupt system with which I am acquainted, the banks, by the stoppage of specie payments, had rendered themselves liable to its operation. If the recommended law had been passed, commissions of bankruptcy could have been immediately sued out against all the suspended banks, their assets seized, and the administration of them transferred from the several corporations to which it is now entrusted, to commissioners appointed by the President himself. Thus, by one blow, would the whole of the state banks have been completely prostrated, and the way cleared for the introduction of the favorite treasury bank ; and is it not in the same spirit of unfriendliness to those banks, and with the same view of removing all obstacles to the establishment of a government bank, that the bill was presented to the Senate a few days ago by the Senator from Tennessee (Mr. Grundy) against the circulation of the notes of the old bank of the United States? At a time when there is too much want of confidence, and when every thing that can be done should be done to revive and strengthen it, we are called upon to pass a law denouncing the heaviest penalty and ignominious punishment against all who shall reissue the notes of the old bank of the United States, of which we are told that about seven millions of dollars are in circulation ; and they constitute the best portion of the paper medium of the country ; the only portion of it which has a credit everywhere, and which serves the purpose of a general circulation ; the only portion with which a man can travel from one end of the continent to the other ; and I do not doubt that the Senator who has fulminated those severe pains and penalties against that best part of our paper medium, provides himself with a sufficient amount of it, whenever he leaves Nashville, to take him to Washington. [Here Mr. Grundy rose, and remarked : No, sir ; I always travel on specie.] Ah ! continued Mr. Clay, my old friend is always *specious*. I am quite sure that members from a distance in the interior generally find it indispensable to supply themselves, on commencing their journey, with an adequate amount of these identical notes to defray its expenses. Why, sir, will any man in his senses deny that these notes are far better than those which have been issued by that government banker, Mr. Levi Woodbury, aided though

he be by the Chancellor of the Exchequer, (I beg his pardon, I mean the ex-Chancellor,) the Senator from New-York, (Mr. Wright?) I am not going to stop here to inquire into the *strict* legality of the re-issue of these notes; that question, together with the power of the government to pass the proposed bill, will be taken up when it is considered. I am looking into the motive of such a measure. Nobody doubts the perfect safety of the notes; no one can believe that they will not be fairly and fully paid. What, then, is the design of the bill? It is to assail the only sure general medium which the people possess. It is because it may come in competition with treasury notes, or other government paper. Sir, if the bill had not been proposed by my old friend from Tennessee, I would say its author better deserved a penitentiary punishment than those against whom it is directed. I remember to have heard of an illustrious individual, now in retirement, having, on some occasion, burst out into the most patriotic indignation, because of a waggish trick played off upon him, by putting a note of the late bank of the United States into his silk purse with his gold.

But it is unnecessary to dwell longer on the innumerable proofs of the hostility against the state banks, and the deliberate purpose of those in power to overthrow them. We hear and see daily throughout the country among their partisans and presses, denunciations against banks, corporations, rag barons, the spirit of monopoly, &c.; and the howl for gold, hard money and the constitutional currency; and no one can listen to the speeches of honorable members, friends of the administration, in this house and the other, without being impressed with a perfect conviction that the destruction of the state banks is meditated.

I have fulfilled my promise, Mr. President, to sustain the first four propositions with which I set out. I now proceed to the fifth proposition.

5. That the bill under consideration is intended to execute Mr. Van Buren's pledge to complete and perfect the principles, plans and policy, of the past administration, by establishing upon the ruins of the late bank of the United States, and the state banks, a government bank, to be managed and controlled by the treasury department, acting under the commands of the President of the United States.

The first impression made by the perusal of the bill is the prodigal and boundless discretion which it grants to the Secretary of the Treasury, irreconcilable with the genius of our free institutions, and contrary to the former cautious practice of the government. As originally reported, he was authorised by the bill to allow any number of clerks he thought proper to the various Receivers General, and to fix their salaries. It will be borne in mind that this is the mere commencement of a system; and it cannot be doubted that, if put into operation, the number of Receivers General and other depositaries of the public money would be indefinitely multiplied. He is allowed to appoint as

many examiners of the public money, and to fix their salaries, as he pleases ; he is allowed to erect at pleasure costly buildings ; there is no estimate for any thing ; and all who are conversant with the operations of the executive branch of the government, know the value and importance of previous estimates. There is no other check upon wasteful expenditure but previous estimates, and that was a point always particularly insisted upon by Mr. Jefferson. The Senate will recollect that, a few days ago, when the salary of the Receiver General at New-York was fixed, the chairman of the committee on finance rose in his place and stated that it was *suggested* by the Secretary of the Treasury that it should be placed at \$3,000 ; and the blank was accordingly so filled. There was no statement of the nature or extent of the duties to be performed, of the time that he would be occupied, of the extent of his responsibility, or the expense of living at the several points where they were to be located ; nothing but the *suggestion* of the Secretary of the Treasury, and that was deemed all-sufficient by a majority. There is no limit upon the appropriation which is made to carry into effect the bill, contrary to all former usage, which invariably prescribed a sum not to be transcended.

A most remarkable feature in the bill is that to which I have already called the attention of the Senate, and of which no satisfactory explanation has been given. It is that which proceeds upon the idea that the treasury is a thing distinct from the treasure of the United States, and gives to the treasury a local habitation and a name, in the new building which is being erected for the treasury department in the city of Washington. In the treasury, so constituted, is to be placed that pittance of the public revenue which is gleaned from the District of Columbia. All else, that is to say, nine hundred and ninety-nine hundredths of the public revenue of the United States is to be placed in the hands of the Receivers General, and the other depositaries beyond the District of Columbia. Now, the constitution of the United States provides that no money shall be drawn from the public treasury but in virtue of a previous appropriation by law. That trifling portion of it, therefore, which is within the District of Columbia, will be under the safeguard of the constitution, and all else will be at the arbitrary disposal of the Secretary of the Treasury.

It was deemed necessary, no doubt, to vest in the Secretary of the Treasury this vast and alarming discretionary power. A new and immense government bank is about to be erected. How it would work in all its parts could not be anticipated with certainty ; and it was thought proper, therefore, to bestow a discretion commensurate with its novelty and complexity, and adapted to any exigencies which might arise. The tenth section of the bill is that in which the power to create a bank is more particularly conferred. It is short, and I will read it to the Senate.

“SEC. 10. *And be it further enacted*, That it shall be lawful

for the Secretary of the Treasury to transfer the moneys in the hands of *any* depositary hereby constituted, to the treasury of the United States; to the mint at Philadelphia; to the branch mint at New-Orleans; or to the offices of either of the Receivers General of public moneys, by this act directed to be appointed; to be there safely kept, according to the provisions of this act; *and also to transfer moneys in the hands of any one depositary, constituted by this act, to any other depositary constituted by the same, AT HIS DISCRETION, and as the safety of the public moneys, and the convenience of the public service, shall seem to him to require.* And, for the purpose of payments on the public account, it shall be lawful for the said Secretary *to draw upon any of the said depositaries, as he may think most conducive to the public interests, or to the convenience of the public creditors, or both."*

It will be seen that it grants a power, perfectly undefined, to the Secretary of the Treasury, to shift and transfer the public money, from depositary to depositary, as he pleases. He is expressly authorized to transfer moneys in the hands of any one depositary, constituted by the act, to any other depositary constituted by it, *at his discretion*, and as the safety of the public moneys, *and the convenience of the public service*, shall seem to him to require. There is no specification of any contingency or contingencies on which he is to act. All is left to his discretion. He is to judge when the public service (and more indefinite terms could not have been employed) shall seem to him to require it. It has been said that this is nothing more than the customary power of transfer, exercised by the treasury department from the origin of the government. I deny it, utterly deny it. It is a totally different power from that which was exercised by the cautious Gallatin, and other Secretaries of the Treasury—a power, by the by, which, on more than one occasion, has been controverted, and which is infinitely more questionable than the power to establish a bank of the United States. The transfer was made by them rarely, in large sums, and were left to the banks to remit. When payments were made they were effected in the notes of banks with which the public money was deposited, or to which it was transferred. The rates of exchange were regulated by the state of the market, and under the responsibility of the banks. But here is a power given to transfer the public moneys, without limit as to sum, place or time, leaving every thing to the discretion of the Secretary of the Treasury, the Receivers General, and other depositaries. What a scope is allowed in the fixation of the rates of exchange, whether of premium or discount, to regulate the whole domestic exchanges of the country, to exercise favoritism! These former transfers were not made for disbursement, but as preparatory to disbursement; and, when disbursed, it was generally in bank notes.—The transfers of this bill are immediate payments, and payments made, not in bank notes, but in specie.

The last paragraph in the section provides that, for the purpose of payments on the public account, it shall be lawful for the Secretary *to draw upon any of the said depositaries, as he may think most conducive to the public interest*, or to the convenience of the public creditors, or both. It will be seen that no limit whatever is imposed upon the amount or form of the draft, or as to the depositary upon which it is drawn. He is made the exclusive judge of what is "most conducive to the public interests." Now let us pause a moment, and trace the operation of the powers thus vested. The government has a revenue of from twenty to thirty millions. The Secretary may draw it to any one or more points, as he pleases. More than a moiety of the revenue arising from customs is receivable at the port of New-York, to which point the Secretary may draw all portions of it, if he thinks it conducive to the public interest. A man has to receive, under an appropriation law, \$10,000, and applies to Mr. Secretary for payment. Where will you receive it? he is asked. On New-York. How? In drafts from \$5 to \$500. Mr. Secretary will give him these drafts accordingly, upon bank note paper, impressed like and simulating bank notes, having all suitable emblazonry, signed by my friend the Treasurer, (whose excellent practical sense, and solid and sound judgment, if he had been at the head of the treasury, instead of Mr. Levi Woodbury, when the suspension of specie payments took place, would have relieved or mitigated the pecuniary embarrassments of the government and the people,) and countersigned by the Comptroller, and filled up in the usual way of bank notes. Here is one of them, said Mr. Clay. [He here held up to the gaze of the Senate a treasury note, having all the appearance of a bank note, colored, engraved, and executed like any other bank note, for \$50.] This, continued Mr. Clay, is a government *post* note, put into circulation, paid out as money, and prepared and sent forth, gradually to accustom the people of this country to government paper.

I have supposed \$10,000 to be received, in the mode stated, by a person entitled to receive it under an appropriation law. Now, let us suppose what he will do with it. Anywhere to the south or west it will command a premium of from two to five per cent. No where in the United States will it be under par. Do you suppose that the holder of these drafts would be fool enough to convert them into specie, to be carried and transported at his risk? Do you think that he would not prefer that this money should be in the responsible custody of the government, rather than in his own insecure keeping? Do you think that he will deny to himself the opportunity of realizing the premium of which he may be perfectly sure? The greatest want of the country is a medium of general circulation, and of uniform value every where. That, especially, is our want in the western and interior states. Now, here is exactly such a medium; and, supposing the government bank to be honestly and faithfully ad-

ministered, it will, during such an administration, be the best convertible paper money in the world, for two reasons. The first is, that every dollar of paper out will be the representative of a dollar of specie in the hands of the Receivers General, or other depositaries; and, secondly, if the Receivers General should embezzle the public money, the responsibility of the government to pay the drafts issued upon the basis of that money would remain unimpaired. The paper, therefore, would be as far superior to the paper of any private corporation as the ability and resources of the government of the United States are superior to those of such corporations.

The banking capacity may be divided into three faculties—deposits, discount of bills of exchange, and promissory notes, or either, and circulation. This government bank would combine them all, except that it would not discount private notes, nor receive private deposits. In payments for the public lands, indeed, individuals are allowed to make deposits, and to receive certificates of their amount. To guard against their negotiability, a clause has been introduced to render them unassignable. But how will it be possible to maintain such an inconvenient restriction, in a country where every description of paper imposing an obligation to pay money or deliver property is assignable, at law or in equity, from the commercial nature and trading character of our people?

Of all the faculties which I have stated of a bank, that which creates a circulation is the most important to the community at large. It is that in which thousands may be interested, who never obtained a discount, or made a deposit with a bank. Whatever a government agrees to receive in payment of the public dues, as a medium of circulation, is money, current money, no matter what its form may be, treasury notes, drafts drawn at Washington by the Treasurer, on the Receiver General at New-York, or, to use the language employed in various parts of this bill, "such notes, bills or paper issued under the authority of the United States." These various provisions were probably inserted not only to cover the case of treasury notes, but that of these drafts, in due season. But if there were no express provision of law, that these drafts should be receivable in payment of public dues, they would, necessarily, be so employed, from their own intrinsic value.

The want of the community of a general circulation of uniform value everywhere in the United States, would occasion vast amounts of the species of drafts which I have described to remain in circulation. The appropriations this year will probably fall not much short of thirty millions. Thirty millions of treasury drafts on Receivers General, of every denomination and to any amount, may be issued by the Secretary of the Treasury. What amount would remain in circulation cannot be determined *a priori*, I suppose not less than ten or fifteen millions; at the end of another year some ten or fifteen millions



more; they would fill all the channels of circulation. The war between the government and state banks continuing, and this mammoth government bank being in the market, constantly demanding specie for its varied and ramified operations, confidence would be lost in the notes of the local banks, their paper would gradually cease to circulate, and the banks themselves would be crippled and broken. The paper of the government bank would ultimately fill the vacuum, as it would instantly occupy the place of the notes of the late bank of the United States.

I am aware, Mr. President, that by the 25th section of the bill, in order to disguise the purpose of the vast machinery which we are about constructing, it is provided that it shall be the duty of the Secretary of the Treasury to issue and publish regulations to enforce the speedy presentation of all government drafts for payments at the place where payable, &c. Now, what a tremendous power is here vested in the Secretary! He is to prescribe rules and regulations to enforce the *speedy* presentation of all government drafts for payment at the place where payable. The speedy presentation! In the case I have supposed, a man has his \$10,000 in drafts on the Receiver General at New-York. The Secretary is empowered to enact regulations requiring him speedily to present them, and, if he do not, the Secretary may order them to be paid at St. Louis. At New-York they may be worth a premium of five per cent.; on St. Louis they may be liable to a discount of five per cent. Now, in a free government, who would ever think of subjecting the property or money of a citizen to the exercise of such a power by any Secretary of the Treasury? What opportunity does it not afford to reward a partizan or punish an opponent? It will be impossible to maintain such an odious and useless restriction for any length of time. Why should the debtor (as the government would be in the case of such drafts as I have supposed) require his creditor (as the holder of the draft would be) to apply within a prescribed time for his payment? No, sir; the system would control you; you could not control the system. But, if such a ridiculous restriction could be so continued, the drafts would, nevertheless, whilst they were out, be the time long or short, perform the office of circulation and money.

Let us trace a little further the operation of this government bank, and follow it out to its final explosion. I have supposed the appropriation of some thirty millions of dollars annually by the government, to be disbursed in the form of drafts, issued at Washington by the treasury department, upon the depositaries. Of that amount some ten or fifteen millions would remain, the first year, in circulation; at the end of another year, a similar amount would continue in circulation; and so on, from year to year, until, at the end of a series of some five or six years, there would be in circulation, to supply the indispensable wants of commerce and of a general medium of uniform value, not less

than some sixty or eighty millions of drafts issued by the government. These drafts would be generally upon the Receiver General at New-York, because on that point they would be preferred over all others, as they would command a premium, or be at par, throughout the whole extent of the United States; and we have seen that the Secretary of the Treasury is invested with ample authority to concentrate at that point the whole revenue of the United States.

All experience has demonstrated that in banking operations a much larger amount of paper can be kept out in circulation than the specie which it is necessary to retain in the vaults to meet it when presented for payment. The proportions which the same experience has ascertained to be entirely safe, are one of specie to three of paper. If, therefore, the executive government had sixty millions of dollars accumulated at the port of New-York, in the hands of the Receiver General, represented by sixty millions of government drafts in circulation, it would be known that twenty of that sixty millions would be sufficient to retain to meet any amount of drafts which, in ordinary times, would be presented for payment. There would then remain forty millions in the vaults, idle and unproductive, and of which no practical use could be made. Well, a great election is at hand in the state of New-York, the result of which will seal the fate of an existing administration. If the application of ten millions of that dormant capital could save, at some future day, a corrupt executive from overthrow, can it be doubted that the ten millions would be applied to preserve it in power? Again: let us suppose some great exigency to arise, a season of war, creating severe financial pressure and embarrassment. Would not an issue of paper, founded upon and exceeding the specie in the vaults, in some such proportions as experience had demonstrated might be safely emitted, be authorized? Finally, the whole amount of specie might be exhausted, and then, as it is easier to engrave and issue bank notes than to perform the unpopular office of imposing taxes and burdens, the discovery would be made that the *credit* of the government was a sufficient basis whereupon to make emissions of paper money, to be redeemed when peace and prosperity returned. Then we should have the days of continental money, and of assignats, restored! Then we should have that government paper medium, which the Senator from South Carolina, (Mr. Calhoun,) considers the most perfect of all currency!

Meantime, and during the progress of this vast government machine, the state banks would be all prostrated. Working well, as it may, if honestly administered, in the first period of its existence, it will be utterly impossible for them to maintain the unequal competition. They could not maintain it, even if the government were actuated by no unfriendly feelings towards them. But, when we know the spirit which animates the present

executive towards them, who can doubt that they must fall in the unequal contest? Their issues will be discredited and discountenanced; and that system of bankruptcy which the President would even now put into operation against them, will, in the sequel, be passed and enforced without difficulty.

Assuming the downfall of the local banks, the inevitable consequence of the operations of this great government bank; assuming, as I have shown would be the case, that the government would monopolize the paper issues of the country, and obtain the possession of a great portion of the specie of the country, we should then behold a combined and concentrated moneyed power, equal to that of all the existing banks of the United States, with that of the late bank of the United States super-added. This tremendous power would be wielded by the Secretary of the Treasury, acting under the immediate commands of the President of the United States. Here would be a perfect union of the sword and the purse; here would be no imaginary, but an actual, visible, tangible, consolidation of the moneyed power. Who or what could withstand it? The states themselves would become suppliants at the feet of the executive for a portion of those paper emissions, of the power to issue which they had been stripped, and which he now exclusively possessed.

Mr. President, my observation and experience have satisfied me that the safety of liberty and prosperity consists in the division of power, whether political or pecuniary. In our federative system, our security is to be found in that happy distribution of power which exists between the federal government and the state governments. In our monetary system, as it lately existed, its excellence resulted from that beautiful arrangement by which the states had their institutions for local purposes, and the general government its institution for the more general purposes of the whole Union. There existed the greatest congeniality between all the parts of this admirable system. All was homogeneous. There was no separation of the federal government from the states, or from the people. There was no attempt to execute practically that absurdity of sustaining, among the same people, two different currencies of unequal value. And how admirably did the whole system, during the forty years of its existence, move and work! And, on the two unfortunate occasions of its ceasing to exist, how quickly did the business and transactions of the country run into wild disorder, and utter confusion.

- Hitherto, I have considered this new project as it is, according to its true nature and character, and what it must inevitably become. I have not examined it as it is not, but as its friends would represent it to be. They hold out the idea that it is a simple contrivance to collect, to keep and to disburse the public revenue. In that view of it, every consideration of safety and security recommends the agency of responsible corporations, rather than the employment of particular individuals. It has

been shown, during the course of this debate, that the amount which has been lost by the defalcation of individuals has exceeded three or four times the amount of all that has been lost by the local banks, although the sums confided to the care of individuals have not been probably one-tenth part of the amount that has been in the custody of the local banks. And we all know that, during the forty years of the existence of the two banks of the United States, not one cent was lost of the public revenue.

I have been curious, Mr. President, to know whence this idea of Receivers General was derived. It has been supposed to have been borrowed from France. It required all the power of that most extraordinary man that ever lived, Napoleon Bonaparte, when he was in his meridian greatness, to displace the Farmers General, and to substitute in their place the Receivers General. The new system requires, I think I have heard it stated, something like 100,000 employees to have it executed. And, notwithstanding the modesty of the infant promises of this new project, I have no doubt that ultimately we shall have to employ a number of persons approximating to that which is retained in France. That will undoubtedly be the case whenever we shall revive the system of internal taxation. In France, what reconciled them to the system was, that Napoleon first, and the Bourbons afterwards, were pleased with the immense patronage which it gave them. They liked to have 100,000 dependents to add strength to the throne, which had been recently constructed or re-ascended.

I thought, however, that the learned chairman of the committee on finance must have had some other besides the French model for his receivers general; and accordingly, upon looking into Smith's history of his own state, I found that, when it was yet a colony some century and a half ago, and when its present noble capital still retained the name of New Amsterdam, the historian says: "Among the principal laws enacted at this session, we may mention that for establishing the revenue, which was drawn into precedent. The sums raised by it were made payable into the hands of receivers general, and issued by the governor's warrant. By this means the governor became, for a season, independent of the people, and hence we find frequent instances of the assemblies contending with him for the discharge of debts to private persons contracted on the faith of the government." The then governor of the colony was a man of great violence of temper, and arbitrary in his conduct. How the sub-treasury system of that day operated, the same historian informs us in a subsequent part of his work. "The revenue," he says, "established the last year, was at this session continued five years longer than was originally intended. This was rendering the governor independent of the people. For, at that day, the assembly had no treasure, but the amount of all taxes went, of course, into the hands of the receiver general, who was

appointed by the crown. Out of this fund, moneys were only issuable by the governor's warrant, so that every officer in the government, from Mr. Blaithwait, who drew annually five per cent. out of the revenue, as auditor general, down to the meanest servant of the public, became dependent, solely, on the governor. And hence we find the house, at the close of every session, humbly addressing his excellency for the trifling wages of their own clerk." And, Mr. President, if this measure should unhappily pass, the day may come when the senate of the United States will have humbly to implore some future President of the United States to grant it money to pay the wages of its own sergeant-at-arms and doorkeeper.

Who, Mr. President, are the most conspicuous of those who perseveringly pressed this bill, upon Congress and the American people? Its drawer is the distinguished gentleman in the white house not far off; its endorser is the distinguished senator from South Carolina, here present. What the drawer thinks of the endorser, his cautious reserve and stifled enmity prevent us from knowing. But the frankness of the endorser has not left us in the same ignorance with respect to his opinion of the drawer. He has often expressed it upon the floor of the Senate. On an occasion not very distant, denying him any of the nobler qualities of the royal beast of the forest, he attributed to him those which belong to the most crafty, most skulking, and one of the meanest of the quadruped tribe. Mr. President, it is due to myself to say that I do not altogether share with the senator from South Carolina in this opinion of the President of the United States. I have always found him, in his manners and deportment, civil, courteous, and gentlemanly; and he dispenses, in the noble mansion which he now occupies, one worthy the residence of the chief magistrate of a great people, a generous and liberal hospitality. An acquaintance with him of more than twenty years' duration has inspired me with a respect for the man, although, I regret to be compelled to say, I detest the magistrate.

The eloquent senator from South Carolina has intimated that the course of my friends and myself, in opposing this bill, was unpatriotic, and that we ought to have followed in his lead; and, in a late letter of his, he has spoken of his alliance with us, and of his motives for quitting it. I cannot admit the justice of his reproach. We united, if indeed, there were any alliance in the case, to restrain the enormous expansion of executive power; to arrest the progress of corruption; to rebuke usurpation; and to drive the Goths and Vandals from the capital; to expel Brennus and his horde from Rome, who, when he threw his sword into the scale, to augment the ransom demanded from the mistress of the world, showed his preference for gold; that he was a hard money chieftain. It was by the much more valuable metal of iron that he was driven from her gates. And how often have we witnessed the senator from South Carolina, with woful coun-

tenance, and in doleful strains, pouring forth touching and mournful eloquence on the degeneracy of the times, and the downward tendency of the republic? Day after day, in the Senate, have we seen the displays of his lofty and impassioned eloquence. Although I shared largely with the senator in his apprehension for the purity of our institutions, and the permanency of our civil liberty, disposed always to look at the brighter side of human affairs, I was sometimes inclined to hope that the vivid imagination of the senator had depicted the dangers by which we were encompassed in somewhat stronger colors than they justified. The arduous contest in which we were so long engaged was about to terminate in a glorious victory. The very object for which the alliance was formed was about to be accomplished. At this critical moment the senator left us; he left us for the very purpose of preventing the success of the common cause. He took up his musket, knapsack, and shot-pouch, and joined the other party. He went, horse, foot, and dragoon, and he himself composed the whole corps. He went, as his present most distinguished ally commenced with his expunging resolution, solitary and alone. The earliest instance recorded in history, within my recollection, of an ally drawing off his forces from the combined army, was that of Achilles at the siege of Troy. He withdrew, with all his troops, and remained in the neighborhood, in sullen and dignified inactivity. But he did not join the Trojan forces; and when, during the progress of the siege, his faithful friend fell in battle, he raised his avenging arm, drove the Trojans back into the gates of Troy, and satiated his vengeance by slaying Priam's noblest and dearest son, the finest hero in the immortal Illiad. But Achilles had been wronged, or imagined himself wronged in the person of the fair and beautiful Briseis. We did no wrong to the distinguished senator from South Carolina. On the contrary, we respected him, confided in his great and acknowledged ability, his uncommon genius, his extensive experience, his supposed patriotism; above all, we confided in his stern and inflexible fidelity. Nevertheless, he left us, and joined our common opponents, distrusting and distrusted. He left us, as he tells us in the Edgefield letter, because the victory which our common arms were about to achieve, was not to enure to him and his party, but exclusively to the benefit of his allies and their cause. I thought that, actuated by patriotism—that noblest of human virtues—we had been contending together for our common country, for her violated rights, her threatened liberties, her prostrate constitution. Never did I suppose that personal or party considerations entered into our views. Whether, if victory shall ever again be about to perch upon the standard of the spoils party,—the denomination which the senator from South Carolina has so often given to his present allies—he will not feel himself constrained, by the principles on which he has acted, to leave them because it may not

enure to the benefit of himself and his party, I leave to be adjusted between themselves.

The speech of the senator from South Carolina, was plausible, ingenious, abstract, metaphysical, and generalizing. It did not appear to me to be adapted to the bosoms and business of human life. It was aerial, and not very high up in the air, Mr. President, either, not quite as high as Mr. Clayton was in his last ascension in his balloon. The senator announced that there was a single alternative, and no escape from one or the other branch of it. He stated that we must take the bill under consideration, or the substitute proposed by the senator from Virginia. I do not concur in that statement of the case. There is another course embraced in neither branch of the senator's alternative; and that course is to do nothing; always the wisest when you are not certain what you ought to do. Let us suppose that neither branch of the alternative is accepted, and that nothing is done. What then, would be the consequence? There would be a restoration of the law of 1789, with all its cautious provisions and securities, provided by the wisdom of our ancestors, which has been so trampled upon by the late and present administrations. By that law, establishing the treasury department, the treasure of the United States is to be received, kept, and disbursed by the treasurer, under a bond with ample security, under a large penalty fixed by law, and not left, as this bill leaves it, to the uncertain discretion of a secretary of the treasury. If, therefore, we were to do nothing, that law would be revived; the treasurer would have the custody, as he ought to have, of the public money, and doubtless he would make special deposits of it in all instances, with safe and sound state banks, as in some cases the secretary of the treasury is now obliged to do. Thus, we should have in operation that very special deposit system, so much desired by some gentlemen, by which the public money would remain separate and unmixed with the money of banks. There is yet another course, unembraced by either branch of the alternative presented by the senator from South Carolina; and that is to establish a bank of the United States, constituted according to the old and approved method of forming such an institution, tested and sanctioned by experience; a bank of the United States which should blend public and private interests, and be subject to public and private control, united together in such a manner as to present safe and salutary checks against all abuses. The senator mistakes his own abandonment of that institution as ours. I know that the party in power has barricaded itself against the establishment of such a bank. It adopted, at the last extra session, the extraordinary and unprecedented resolution, that the people of the United States should not have such a bank, although it might be manifest that there was a clear majority of them demanding it. But the day may come, and I trust is not distant, when the



will of the people must prevail in the councils of her own government; and when it does arrive a bank will be established.

The senator from South Carolina reminds us that we denounced the pet bank system; and so we did, and so we do. But does it therefore follow that, bad as that system was, we must be driven into the acceptance of a system infinitely worse? He tells us that the bill under consideration takes the public funds out of the hands of the executive, and places them in the hands of the law. It does no such thing. They are now without law, it is true, in the custody of the executive; and the bill proposes by law to confirm them in that custody, and to convey new and enormous powers of control to the executive over them. Every custodary of the public funds provided by the bill is a creature of the executive, dependent upon his breath, and subject to the same breath for removal, whenever the executive, from caprice, from tyranny, or from party motives, shall choose to order it. What safety is there for the public money, if there were a hundred subordinate executive officers charged with its care, whilst the doctrine of the absolute unity of the whole executive power, promulgated by the last administration, and persisted in by this, remains unrevoked and unrebuked?

Whilst the senator from South Carolina professes to be the friend of state banks, he has attacked the whole banking system of the United States. He is their friend; he only thinks they are all unconstitutional! Why? Because the coining power is possessed by the general government, and that coining power, he argues, was intended to supply a currency of the precious metals; but the state banks absorb the precious metals, and withdrew them from circulation, and, therefore, are in conflict with the coining power. That power, according to my view of it, is nothing but a naked authority to stamp certain pieces of the precious metals, in fixed proportions of alloy and pure metal prescribed by law, so that their exact value be known. When that office is performed, the power is *functus officio*; the money passes out of the mint, and becomes the lawful property of those who legally acquire it. They may do with it as they please, throw it into the ocean, bury it in the earth, or melt it in a crucible, without violating any law. When it has once left the vaults of the mint, the law maker has nothing to do with it, but to protect it against those who attempt to debase or counterfeit, and, subsequently, to pass it as lawful money. In the sense in which the senator supposes banks to conflict with the coining power, foreign commerce, and especially our commerce with China, conflicts with it much more extensively. That is the great absorbent of the precious metals, and is therefore much more unconstitutional than the state banks. Foreign commerce sends them out of the country; banks retain them within it. The distinguished senator is no enemy to the banks; he merely thinks them injurious to the morals and industry of the country. He likes them very well, but he nevertheless believes that they

levy a tax of twenty-five millions annually on the industry of the country ! Let us examine, Mr. President, and see how this enormous and iniquitous assessment is made, according to the argument of the senator from South Carolina. He states that there is a mass of debt due from the community to the banks, amounting to \$475,000,000, the interest upon which, constituting about that sum of \$25,000,000, forms the exceptionable tax. Now, this sum is not paid by the whole community, but only by those individuals who obtain discounts from the banks. They borrow money at six per cent. interest, and invest it in profitable adventures, or otherwise employ it. They would not borrow it if they did not suppose they could make profit by it ; and the probability is, that they do make profit by it. Instead, therefore, of there being any loss in the operation, there is an actual gain to the community, by the excess of profit made beyond six per cent. interest, which they pay. What are banks ? They are mere organized agencies for the loan of money and the transaction of monetary business ; regulated agencies acting under the prescriptions of law, and subject to a responsibility, moral and legal, far transcending that under which any private capitalist operates. A number of persons, not choosing to lend out their money privately, associate together, bring their respective capitals into a common stock, which is controlled and managed by the corporate government of a bank. If no association whatever had been formed, a large portion of this capital, therefore, of that very debt of \$475,000,000, would still exist, in the shape of private loans.

The senator from South Carolina might as well collect the aggregate amount of all the mortgages, bonds, and notes, which have been executed in the United States for loans, and assert that the interest paid upon the total sum constituted a tax levied upon the community.

In the liquidation of the debt due to the banks from the community, and from banks to the community, there would not be as much difficulty as the senator seems to apprehend. From the mass of debts due to the banks are to be deducted, first, the amount of subscriptions which constitute their capitals ; secondly, the amount of deposits to the credit of individuals in their custody ; and, thirdly, the amount of their notes in circulation. How easily will these mutual debts neutralize each other ! The same person, in numberless instances, will combine in himself the relations both of creditor and debtor.

The only general operation of banks beyond their discounts and deposits, which pervades the whole community, is that of furnishing a circulation in redeemable paper, beyond the amount of specie to redeem it in their vaults. And can it be doubted that this additional supply of money furnishes a powerful stimulus to industry and production, fully compensating any casual inconvenience, which sometimes, though rarely, occurs ? Banks reduce the rate of interest, and repress inordinate usury. The salutary

influence of banking operations is demonstrated in countries and sections of country where they prevail, when contrasted with those in which they are not found. In the former, all is bustle, activity, general prosperity. The country is beautified and adorned by the noble works of internal improvements; the cities are filled with splendid edifices, and the wharves covered with the rich productions of our own and of foreign climates. In the latter, all is sluggishness, slothfulness, and inactivity. England, in modern times, illustrates the great advantages of banks, of credit, and of stimulated industry. Contrast her with Spain, destitute of all those advantages. In ancient times, Athens would present an image of full and active employment of all the energies of man, carried to the highest point of civilization, whilst her neighbor, Sparta, with her iron money, affords another of the boasted benefits of metallic circulation.

The senator from South Carolina would do the banks no harm; but they are deemed by him highly injurious to the planting interest! According to him, they inflate prices, and the poor planter sells his productions for hard money, and has to purchase his supplies at the swollen prices produced by a paper medium. Now, I must dissent altogether from the senator's statement of the case. England, the principal customer of the planter, is quite as much, if not more a paper country than ours. And the paper-money prices of the one country are neutralized by the paper-money prices of the other country. If the argument were true that a paper-money country trades disadvantageously with a hard-money country, we ought to continue to employ a paper medium, to counterbalance the paper medium of England. And if we were to banish our paper, and substitute altogether a metallic currency, we should be exposed to the very inequality which has been insisted upon. But there is nothing in that view of the matter which is presented by the Senator from South Carolina. If, as he asserts, prices were always inflated in this country beyond their standard in England, the rate of exchange would be constantly against us. An examination, however, into the actual state of exchange between the two countries, for a long series of years, evinces that it has generally been in our favor. In the direct trade between England and this country, I have no doubt there is a large annual balance against us; but that balance is adjusted and liquidated by balances in our favor in other branches of our foreign trade, which have been finally concentrated in England, as the great centre of the commercial world.

Of all the interests and branches of industry in this country, none has profited more by the use and employment of credit and capital derived from the banks and other sources, than the planting interest. It habitually employs credit in all countries where planting agriculture prevails. The states of Alabama, Mississippi, Arkansas, and Louisiana, have almost sprung into existence, as it were, by magic, or at least, have been vastly improved

and extended, under the influence of the credit system. Lands, slaves, utensils, beasts of burden, and other supplies, have been constantly bought, and still continue to be purchased, upon credit; and bank agency is all-essential to give the most beneficial operation to these credits. But the argument of the Senator from South Carolina, which I am combating, would not be correct, if it were true that we have inflated prices on this side of the Atlantic, without a corresponding inflation of price on the other side; because the planter, generally selling at home, and buying at home, the proceeds of his sale, whatever they may be, constitute the means by which he effects his purchases, and consequently neutralizes each other. In what do we of the west receive payment for the immense quantity of live stock and other produce of our industry, which we annually sell to the south and southwest, but that paper medium now so much decried and denounced? The Senator from South Carolina is very fond of the state banks; but he thinks there is no legitimate currency except that of the constitution. He contends that the power which the government possesses to impose taxes restricts it, in their payment, to the receipt of the precious metals. But the constitution does not say so. The power is given in broad and unrestricted terms; and the government is left at liberty to collect the taxes in whatever medium or commodity, from the exigencies of the case, it can collect them. It is, doubtless, much the most convenient to collect them in money, because that represents, or can command, every thing, the want of which is implied by the power of taxation. But suppose there was no money in the country, none whatever, to be extorted by the tax-gatherer from an impoverished people? Is the power of government to cease, and the people to be thrown back into a state of nature? The Senator asks if taxes could be levied and collected in tobacco, in cotton, and other commodities? Undoubtedly they could, if the necessity existed for such an inconvenient imposition. Such a case of necessity did exist in the colony of Virginia, and other colonies, prior to the revolution, and taxes were accordingly levied in tobacco or other commodities, as wolf-scalps, even at this day, compose a part of the revenue of more than one state.

The argument, then, of the Senator against the right of the government to receive bank notes in payment of public dues, a practice coeval with the existence of the government, does not seem to me to be sound. It is not accurate, for another reason. Bank notes, when convertible at the will of the holder into specie, are so much counted or told specie, like the specie which is counted and put in marked kegs, denoting the quantity of their contents. The Senator tells us that it has been only within a few days that he has discovered that it is illegal to receive bank notes in payment of public dues. Does he think that the usage of the government under all its administrations, and with every party in power, which has prevailed for nigh fifty years, ought to be

set aside by a novel theory of his, just dreamed into existence, even if it possess the merit of ingenuity? The bill under consideration, which has been eulogized by the Senator as perfect in its structure and details, contains a provision that bank notes shall be received in diminished proportions, during a term of six years. He himself introduced the identical principle. It is the only part of the bill that is emphatically his. How, then, can he contend that it is unconstitutional to receive bank notes in payment of public dues? I appeal from himself to himself. The Senator further contends, that general deposits cannot be made with banks, and be thus confounded with the general mass of the funds on which they transact business. The argument supposes that the money collected for taxes must be preserved in identity; but that is impossible, often, to do. May not a collector give the small change which he has received from one tax-payer to another tax-payer to enable him to effect his payment? May he not change gold for silver, or *vice versa*, or both, if he be a distant collector, to obtain an undoubted remittance to the public treasury? What, Mr. President, is the process of making deposits with banks? The deposit is made, and a credit is entered for its amount to the government. That credit is supposed to be the exact equivalent of the amount deposited, ready and forthcoming to the government whenever it is wanted for the purposes of disbursement. It is immaterial to the government whether it receives back again the identical money put in, or other money of equal value. All that it wants is what it put in the bank, or its equivalent; and that, in ordinary times, with such prudent banks as alone ought to be selected, it is sure of getting. Again: the treasury has frequently to make remittances to foreign countries, to meet the expenditure necessary there for our naval squadrons and other purposes. They are made to the bankers, to the Baring's or the Rothschilds, in the form of bills of exchange, purchased in the market by the agents of the government here, with money drawn out of the treasury. Here is one conversion of the money received from the tax-gatherer into the treasury. The bills are transmitted to the bankers, honored, paid, and the amount credited by them to the United States. Are the bankers bound to retain the proceeds of the bills in identity? Are they bound to do more than credit the government for an equal amount, for which they stand responsible whenever it is wanted? If they should happen to use any portion of those very proceeds of bills remitted to them in their banking operations, would it be drawing money from the treasury, contrary to the provisions of the constitution?

The Senator from South Carolina contends that there is no constitutional power to contract with the twenty-five selected banks, as proposed in the substitute; yet the deposit act of 1836, which obtained the hearty approbation of that Senator, contained a similar provision; and the very bill under consideration, so warmly supported by him, provides, under certain contingencies,

for contracts to be made with state banks, to receive deposits of the public money upon compensation. He objects to the substitute, that it converts twenty-five state banks into a system of federal institutions ; but the employment of state institutions by the federal authority no more makes them federal, than the employment of federal institutions by the states converts them into state institutions. This mutual aid, and this reciprocal employment of the several institutions of the general and particular governments, is one of the results and beauties of our admirable though complex system of government. The general government has the use of the capital, court-houses, prisons, and penitentiaries, in the several states. Do they, therefore, cease to appertain to the states ? It is to be borne in mind that, although the state banks may occasionally be used by the federal authority, their legal responsibility to the several states remains unimpaired.— They continue to be accountable to them, and their existence can only be terminated or prolonged by the state authority. And being governed, as they are, by corporate authority, emanating from, and amenable to, state jurisdiction, and not under the control of the executive of the United States, constitutes at once a greater security for the public money, and more safety to the public liberty. It has been argued that a separation of the government from the banks will diminish the executive power. It must be admitted that the custody of the public money in various banks, subject to the control of state authority, furnishes some check upon the possible abuses of the executive government.— But the argument maintains that the executive has least power when it has most complete possession of the public treasury ! The Senator from South Carolina contends that the separation in question being once effected, the relation of the federal government and the state banks will be antagonistical. I believe so, Mr. President. This is the very thing I wish to prevent. I want them to live in peace, harmony and friendship. If they are antagonists, how is it possible that the state banks can maintain their existence against the tremendous influence of this government ? Especially, if this government should be backed by such a vast treasury bank as I verily believe this bill is intended to create ? And what becomes of the argument urged by the Senator from South Carolina, and the abolition resolutions offered by him at an early period of the session, asserting that the general government is bound to protect the domestic institutions of the several states ?

The substitute is not, I think, what the welfare of the country requires. It may serve the purpose of a good half-way house. Its accommodations appear fair, and, with the feelings of a wearied traveller, one may be tempted to stop awhile and refresh himself there. I shall vote for it as an amendment to the bill, because I believe it the least of two evils, if it should, indeed, inflict any evil ; or rather, because I feel myself in the position of a patient to whom the physician presents in one hand a cup of

arsenic, and in the other a cup of ptisan; I reject the first, because of the instant death with which it is charged; I take the latter, as being, at the most, harmless, and depend upon the *vis medicatrix natura*. It would have been a great improvement, in my opinion, if the mode of bringing about the resumption of specie payments, contained in the substitute, were reversed: that is to say, if, instead of fixing on the first of July for resumption, it had provided that the notes of a certain number of safe, sound and unquestionable banks to be selected, should be forthwith received by the general government, in payment of all public dues; and that if the selected banks did not resume, by a future designated day, their notes should cease to be taken. Several immediate effects would follow: 1st. The government would withdraw from the market as a competitor with the banks for specie, and they would be left undisturbed to strengthen themselves. And, 2dly, confidence would be restored by taking off the discredit and discountenance thrown upon all banks by the government. And why should these notes not be so received? They are as good as treasury notes, if not better. They answer all the purposes of the state governments and the people. They now would buy as much as specie could have commanded at the period of suspension. They could be disbursed by the government. And, finally, the measure would be temporary.

But the true and only efficacious and permanent remedy, I solemnly believe, is to be found in a bank of the United States, properly organized and constituted. We are told that such a bank is fraught with indescribable danger, and that the government must, in the sequel, get possession of the bank, or the bank of the government. I oppose to these imaginary terrors the practical experience of forty years. I oppose to them the issue of the memorable contest, commenced by the late President of the United States, against the late bank of the United States. The administration of that bank had been without serious fault. It had given no just offence to the government, towards which it had faithfully performed every financial duty. Under its able and enlightened President, it had fulfilled every anticipation which had been formed by those who created it; President Jackson pronounced the edict that it must fall, and it did fall, against the wishes of an immense majority of the people of the United States; against the convictions of its utility entertained by a large majority of the states; and to the prejudice of the best interests of the whole country. If an innocent, unoffending and highly beneficial institution could be thus easily destroyed by the power of one man, where would be the difficulty of crushing it, if it had given any real cause for just animadversion? Finally, I oppose to these imaginary terrors the example deducible from English history. There a bank has existed since the year 1694, and neither has the bank got possession of the government, nor the government of the bank. They have



existed in harmony together, both conducing to the prosperity of that great country; and they have so existed, and so contributed, because each has avoided cherishing towards the other that wanton and unnecessary spirit of hostility which was unfortunately engendered in the bosom of the late President of the United States.

I am admonished, sir, by my exhausted strength, and by, I fear, your more exhausted patience, to hasten to a close. Mr. President, a great, novel and untried measure is perseveringly urged upon the acceptance of Congress. That it is pregnant with tremendous consequences, for good or evil, is undeniable, and admitted by all. We firmly believe that it will be fatal to the best interests of this country, and ultimately subversive of its liberties. You, who have been greatly disappointed in other measures of equal promise, can only hope, in the doubtful and uncertain future, that its operation may prove salutary. Since it was first proposed at the extra session, the whole people have not had an opportunity of passing in judgment upon it at their elections. As far as they have, they have expressed their unqualified disapprobation. From Maine to the state of Mississippi, its condemnation has been loudly thundered forth. In every intervening election, the administration has been defeated, or its former majorities neutralized. Maine has spoken; New-York, Pennsylvania, Maryland, Ohio, Rhode Island, Mississippi and Michigan; all these states, in tones and terms not to be misunderstood, have denounced the measure. The key-stone state (God bless her) has twice proclaimed her rejection of it, once at the polls, and once through her Legislature. Friends and foes of the administration have united in condemning it. And, at the very moment when I am addressing you, a large meeting of the late supporters of the administration, headed by the distinguished gentleman who presided in the electoral college which gave the vote of that patriotic state to President Van Buren, are assembling in Philadelphia, to protest solemnly against the passage of this bill. Is it right that, under such circumstances, it should be forced upon a reluctant but free and intelligent people? Is it right that this Senate, constituted as it now is, should give its sanction to the measure? I say it in no disrespectful or taunting sense, but we are entitled, according to the latest expressions of the popular will, and in virtue of manifestations of opinion deliberately expressed by State Legislatures, to a vote of thirty-five against the bill; and I am ready to enter, with any Senator friendly to the administration, into details to prove the assertion. Will the Senate, then, bring upon itself the odium of passing this bill? I implore it to forbear, forbear, forbear! I appeal to the instructed Senators. Is this government made for us, or for the people and the states, whose agents we are? Are we not bound so to administer it as to advance their welfare, promote their prosperity, and give general satisfaction? Will that sacred trust be fulfilled, if the known

sentiments of large and respectable communities are despised and condemned by those whom they have sent here? I call upon the honorable Senator from Alabama, (Mr. King,) with whom I have so long stood in the public councils, shoulder to shoulder, bearing up the honor and the glory of this great people, to come now to their rescue. I call upon all the Senators; let us bury, deep and forever, the character of the partizan, rise up patriots and statesmen, break the vile chains of party, throw the fragments to the winds, and feel the proud satisfaction that we have made but a small sacrifice to the paramount obligations which we owe our common country.

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## ABOLITION PETITIONS.

*In Senate, Thursday, February 7, 1839.*

Mr. Clay, of Kentucky, rose to present a petition, and said: I have received, Mr. President, a petition to the Senate and House of Representatives of the United States, which I wish to present to the Senate. It is signed by several hundred inhabitants of the District of Columbia, and chiefly of the city of Washington. Among them I recognize the name of the highly esteemed mayor of the city, and other respectable names, some of which are personally and well known to me. They express their regret that the subject of the abolition of slavery within the District of Columbia continues to be pressed upon the consideration of Congress by inconsiderate and misguided individuals in other parts of the United States. They state that they do not desire the abolition of slavery within the district, even if Congress possess the very questionable power of abolishing it, without the consent of the people whose interests would be immediately and directly affected by the measure; that it is a question solely between the people of the district and their only constitutional legislature, purely municipal, and one in which no exterior influence or interest can justly interfere; that, if at any future period the people of this district should desire the abolition of slavery within it, they will doubtless make their wishes known, when it will be time enough to take the matter into consideration; that they do not, on this occasion, present themselves to Congress because they are slave-holders—many of them are not; some of them are conscientiously opposed to slavery—but they appear because they justly respect the rights of those who own that description of property, and because they entertain a deep conviction that the continued agitation of the question by those who have no right to interfere with it, has an injurious influence on the peace and tranquility of the community, and upon the well-being and happiness of those who are held in subjection;

they finally protest as well against the unauthorized intervention of which they complain, as against any legislation on the part of Congress in compliance therewith. But, as I wish these respectable petitioners to be themselves heard, I request that their petition may be read. [It was read accordingly, and Mr. Clay proceeded.] I am informed by the committee which requested me to offer this petition, and believe, that it expresses the almost unanimous sentiments of the people of the District of Columbia.

The performance of this service affords me, said Mr. C., a legitimate opportunity, of which, with the permission of the Senate, I mean now to avail myself, to say something, not only on the particular objects of the petition, but upon the great and interesting subject with which it is intimately associated.

It is well known to the Senate, said Mr. Clay, that I have thought that the most judicious course with abolition petitions has not been of late pursued by Congress. I have believed that it would have been wisest to have received and referred them, without opposition, and to have reported against their object in a calm and dispassionate and argumentative appeal to the good sense of the whole community. It has been supposed, however, by a majority of Congress, that it was most expedient either not to receive the petitions at all, or, if formally received, not to act definitively upon them. There is no substantial difference between these opposite opinions, since both look to an absolute rejection of the prayer of the petitioners. But there is a great difference in the form of proceeding; and, Mr. President, some experience in the conduct of human affairs has taught me to believe that a neglect to observe established forms is often attended with more mischievous consequences than the infliction of a positive injury. We all know that, even in private life, a violation of the existing usages and ceremonies of society cannot take place without serious prejudice. I fear, sir, that the abolitionists have acquired a considerable apparent force by blending with the object which they have in view a collateral and totally different question arising out of an alleged violation of the right of petition. I know full well, and take great pleasure in testifying, that nothing was remoter from the intention of the majority of the Senate, from which I differed, than to violate the right of petition in any case in which, according to its judgment, that right could be constitutionally exercised, or where the object of the petition could be safely or properly granted. Still, it must be owned that the abolitionists have seized hold of the fact of the treatment which their petitions have received in Congress, and made injurious impressions upon the minds of a large portion of the community. This, I think, might have been avoided by the course which I should have been glad to have seen pursued.

And I desire now, Mr. President, to advert to some of those topics which I think might have been usefully embodied in a re-

port by a committee of the Senate, and which, I am persuaded, would have checked the progress, if it had not altogether arrested the efforts of abolition. I am sensible, sir, that this work would have been accomplished with much greater ability and with much happier effect, under the auspices of a committee, than it can be by me. But, anxious as I always am to contribute whatever is in my power to the harmony, concord, and happiness of this great people, I feel myself irresistably impelled to do whatever is in my power, incompetent as I feel myself to be, to dissuade the public from continuing to agitate a subject fraught with the most direful consequences.

There are three classes of persons opposed, or apparently opposed, to the continued existence of slavery in the United States. The first are those who, from sentiments of philanthropy and humanity, are conscientiously opposed to the existence of slavery, but who are no less opposed, at the same time, to any disturbance of the peace and tranquillity of the Union, or the infringement of the powers of the states composing the confederacy. In this class may be comprehended that peaceful and exemplary society of "Friends," one of whose established maxims is, an abhorrence of war in all its forms, and the cultivation of peace and good-will amongst mankind. The next class consists of apparent abolitionists—that is, those who, having been persuaded that the right of petition has been violated by Congress, cooperate with the abolitionists for the sole purpose of asserting and vindicating that right. And the third class are the real ultra-abolitionists, who are resolved to persevere in the pursuit of their object at all hazards, and without regard to any consequences, however calamitous they may be. With them the rights of property are nothing; the deficiency of the powers of the general government is nothing; the acknowledged and incontestible powers of the states are nothing; civil war, a dissolution of the Union, and the overthrow of a government in which are concentrated the fondest hopes of the civilized world, are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences. With this class, the immediate abolition of slavery in the District of Columbia, and in the territory of Florida, the prohibition of the removal of slaves from state to state, and the refusal to admit any new state, comprising within its limits the institution of domestic slavery, are but so many means conducing to the accomplishment of the ultimate but perilous end at which they avowedly and boldly aim; are but so many short stages in the long and bloody road to the distant goal at which they would finally arrive. Their purpose is abolition, universal abolition, peaceably if it can, forcibly if it must. Their object is no longer concealed by the thinnest veil; it is avowed and proclaimed. Utterly destitute of constitutional or other rightful power, living in totally distinct com-

munities, as alien to the communities in which the subject on which they would operate resides, so far as concerns political power over that subject, as if they lived in Africa or Asia, they nevertheless promulgate to the world their purpose to be to manumit forthwith, and without compensation, and without moral preparation, three millions of negro slaves, under jurisdictions altogether separated from those under which they live. I have said that immediate abolition of slavery in the District of Columbia and the territory of Florida, and the exclusion of new states, were only means towards the attainment of a much more important end. Unfortunately, they are not the only means. Another, and much more lamentable one is that which this class is endeavoring to employ, of arraying one portion against another portion of the Union. With that view, in all their leading prints and publications, the alledged horrors of slavery are depicted in the most glowing and exaggerated colors, to excite the imaginations and stimulate the rage of the people in the free states against the people in the slave states. The slave-holder is held up and represented as the most atrocious of human beings. Advertisements of fugitive slaves and of slaves to be sold, are carefully collected and blazoned forth, to infuse a spirit of detestation and hatred against one entire and the largest section of the Union. And like a notorious agitator upon another theatre, they would hunt down and proscribe from the pale of civilized society the inhabitants of that entire section. Allow me, Mr. President, to say, that whilst I recognize in the justly wounded feelings of the minister of the United States at the court of St. James, much to excuse the notice which he was provoked to take of that agitator, in my humble opinion, he would better have consulted the dignity of his station and of his country in treating him with contemptuous silence. He would exclude us from European society—he who himself can only obtain a contraband admission, and is received with scornful repugnance into it! If he be no more desirous of our society than we are of his, he may rest assured that a state of eternal non-intercourse will exist between us. Yes, sir, I think the American minister would have best pursued the dictates of true dignity by regarding the language of the member of the British House of Commons as the malignant ravings of the plunderer of his own country, and the libeller of a foreign and kindred people.

But the means to which I have already adverted, are not the only ones which this third class of ultra-abolitionists are employing to effect their ultimate end. They began their operations by professing to employ only persuasive means in appealing to the humanity, and enlightening the understandings, of the slaveholding portion of the Union. If there were some kindness in this avowed motive, it must be acknowledged that there was rather a presumptuous display also of an assumed superiority in intelligence and knowledge. For some time they continued to make these appeals to our duty and our interest; but impatient

with the slow influence of their logic upon our stupid minds, they recently resolved to change their system of action. To the agency of their powers of persuasion, they now propose to substitute the powers of the ballot box; and he must be blind to what is passing before us, who does not perceive that the inevitable tendency of their proceedings is, if these should be found insufficient, to invoke, finally, the more potent powers of the bayonet.

Mr. President, it is at this alarming stage of the proceedings of the ultra-abolitionists that I would seriously invite every considerate man in the country solemnly to pause, and deliberately to reflect, not merely on our existing posture, but upon that dreadful precipice down which they would hurry us. It is because these ultra-abolitionists have ceased to employ the instruments of reason and persuasion, have made their cause political, and have appealed to the ballot box, that I am induced, upon this occasion to address you.

There have been three epochs in the history of our country at which the spirit of abolition displayed itself. The first was immediately after the formation of the present federal government. When the constitution was about going into operation, its powers were not well understood by the community at large, and remained to be accurately interpreted and defined. At that period numerous abolition societies were formed, comprising not merely the society of Friends, but many other good men. Petitions were presented to Congress, praying for the abolition of slavery. They were received without serious opposition, referred, and reported upon by a committee. The report stated that the general government had no power to abolish slavery as it existed in the several states, and that these states themselves had exclusive jurisdiction over the subject. The report was generally acquiesced in, and satisfaction and tranquillity ensued; the abolition societies thereafter limiting their exertions, in respect to the black population, to offices of humanity within the scope of existing laws.

The next period when the subject of slavery, and abolition incidentally, was brought into notice and discussion, was that on the memorable occasion of the admission of the state of Missouri into the Union. The struggle was long, strenuous, and fearful. It is too recent to make it necessary to do more than merely advert to it, and to say, that it was finally composed by one of those compromises characteristic of our institutions, and of which the constitution itself is the most signal instance.

The third is that in which we now find ourselves. Various causes, Mr. President, have contributed to produce the existing excitement on the subject of abolition. The principal one perhaps, is the example of British emancipation of the slaves in the islands adjacent to our country. Such is the similarity in laws, in language, in institutions, and in common origin, between Great Britain and the United States, that no great measure of

national policy can be adopted in the one country without producing a considerable degree of influence in the other. Confounding the totally different cases together, of the powers of the British parliament and those of the Congress of the United States, and the totally different situations of the British West India Islands, and the slaves in the sovereign and independent states of this confederacy, superficial men have inferred from the undecided British experiment the practicability of the abolition of slavery in these states. The powers of the British parliament are unlimited, and are often described to be omnipotent. The powers of the American Congress, on the contrary, are few, cautiously limited, scrupulously excluding all that are not granted, and above all, carefully and absolutely excluding all power over the existence or continuance of slavery in the several states. The slaves, too, upon which British legislation operated, were not in the bosom of the kingdom, but in remote and feeble colonies having no voice in parliament. The West India slaveholder was neither represented nor representative in that parliament. And whilst I most fervently wish complete success to the British experiment of West India emancipation, I confess that I have fearful forebodings of a disastrous termination of it. Whatever it may be, I think it must be admitted that, if the British parliament had treated the West India slaves as freemen, it also treated the West India freemen as slaves. If, instead of these slaves being separated by a wide ocean from the parent country, three or four millions of African negro slaves had been dispersed over England, Scotland, Wales, and Ireland, and their owners had been members of the British parliament—a case which would have presented some analogy to that of our own country—does any one believe that it would have been expedient or practicable to have emancipated them, leaving them to remain, with all their embittered feelings, in the United kingdom, boundless as the powers of the British parliament are?

Other causes have conspired with the British example to produce the existing excitement from abolition. I say it with profound regret, but with no intention to occasion irritation here or elsewhere, that there are persons in both parts of the Union who have sought to mingle abolition with politics, and to array one portion of the Union against the other. It is the misfortune in free countries that, in high party times, a disposition too often prevails to seize hold of every thing which can strengthen the one side or weaken the other. Charges of fostering abolition designs have been heedlessly and unjustly made by one party against the other. Prior to the late election of the present President of the United States, he was charged with being an abolitionist, and abolition designs were imputed to many of his supporters. Much as I was opposed to his election, and am to his administration, I neither shared in making nor believing the truth of the charge. He was scarcely installed in office before the same charge was directed against those who opposed his election.



Mr. President, it is not true, and I rejoice that it is not true, that either of the two great parties in this country has any designs or aim at abolition. I should deeply lament if it were true. I should consider, if it were true, that the danger to the stability of our system would be infinitely greater than any which does, I hope, actually exist. Whilst neither party can be, I think, justly accused of any abolition tendency or purpose, both have profited, and both have been injured, in particular localities, by the accession or abstraction of abolition support. If the account were fairly stated, I believe the party to which I am opposed has profited much more, and been injured much less, than that to which I belong. But I am far, for that reason, from being disposed to accuse our adversaries of being abolitionists.

And now, Mr. President, allow me to consider the several cases in which the authority of Congress is invoked by these abolition petitioners upon the subject of domestic slavery. The first relates to it as it exists in the District of Columbia. The following is the provision of the constitution of the United States in reference to that matter:

“To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular states, and the acceptance of Congress, become the seat of government of the United States.”

This provision preceded, in point of time, the actual cessions which were made by the states of Maryland and Virginia. The object of the cession was to establish *a seat of government of the United States*; and the grant in the constitution of exclusive legislation must be understood, and should be always interpreted, as having relation to the object of the cession. It was with a full knowledge of this clause in the constitution that those two states ceded to the general government the ten miles square, constituting the District of Columbia. In making the cession, they supposed that it was to be applied, and applied solely, to the purposes of a seat of government, for which it was asked. When it was made, slavery existed in both those commonwealths, and in the ceded territory, as it now continues to exist in all of them. Neither Maryland nor Virginia could have anticipated that, whilst the institution remained within their respective limits, its abolition would be attempted by Congress without their consent. Neither of them would probably have made an unconditional cession, if they could have anticipated such a result.

From the nature of the provision in the constitution, and the avowed object of the acquisition of the territory, two duties arise on the part of Congress. The first is, to render the District available, comfortable and convenient, as a seat of government of the whole Union; the other is, to govern the people within the district so as best to promote their happiness and prosperity. These objects are totally distinct in their nature, and, in interpreting and exercising the grant of the power of

exclusive legislation, that distinction should be constantly borne in mind. Is it necessary, in order to render this place a comfortable seat of the general government, to abolish slavery within its limits? No one can or will advance such a proposition. The government has remained here near forty years without the slightest inconvenience from the presence of domestic slavery. Is it necessary to the well being of the people of the District that slavery should be abolished from amongst them?—They not only neither ask nor desire, but are almost unanimously opposed to it. It exists here in the mildest and most mitigated form. In a population of 39,834, there were, at the last enumeration of the population of the United States, but 6,119 slaves. The number has not probably much increased since. They are dispersed over the ten miles square, engaged in the quiet pursuits of husbandry, or in menial offices in domestic life. If it were necessary to the efficiency of this place, as a seat of the general government, to abolish slavery, which is utterly denied, the abolition should be confined to the necessity which prompts it, that is, to the limits of the city of Washington itself. Beyond those limits, persons concerned in the government of the United States have no more to do with the inhabitants of the District than they have with the inhabitants of the adjacent counties of Maryland and Virginia which lie beyond the District.

To abolish slavery within the District of Columbia, whilst it remains in Virginia and Maryland, situated, as that District is, within the very heart of those states, would expose them to great practical inconvenience and annoyance. The District would become a place of refuge and escape for fugitive slaves from the two states, and a place from which the spirit of discontent, insubordination and insurrection might be fostered and encouraged in the two states. Suppose, as was at one time under consideration, Pennsylvania had granted ten miles square within its limits, for the purpose of a seat of the general government; could Congress, without a violation of good faith, have introduced and established slavery within the bosom of that commonwealth, in the ceded territory, after she had abolished it so long ago as the year 1780? Yet the inconvenience to Pennsylvania in the case supposed would have been much less than that to Virginia and Maryland in the case we were arguing.

It was upon this view of the subject that the Senate, at its last session, solemnly declared that it would be a violation of implied faith, resulting from the transaction of the cession, to abolish slavery within the District of Columbia. And would it not be? By implied faith is meant that, when a grant is made for one avowed and declared purpose, known to the parties, the grant should not be perverted to another purpose, unavowed and undeclared, and injurious to the grantor. The grant, in the case we are considering, of the territory of Columbia, was for a *seat of government*. Whatever power is necessary to accom-

plish that object, is carried along by the grant. But the abolition of slavery is not necessary to the enjoyment of this site as a seat of the general government. The grant in the constitution, of exclusive power of legislation over the District, was made to ensure the exercise of an exclusive authority of the general government to render this place a safe and secure seat of government, and to promote the well being of the inhabitants of the District. The power granted ought to be interpreted and exercised solely to the end for which it was granted. The language of the grant was necessarily broad, comprehensive and exclusive, because all the exigencies which might arise to render this a secure seat of the general government could not have been foreseen and provided for. The language may possibly be sufficiently comprehensive to include a power of abolition, but it would not at all thence follow that the power could be rightfully exercised. The case may be resembled to that of a plenipotentiary invested with a plenary power, but who, at the same time, has positive instructions from his government as to the kind of treaty which he is to negotiate and conclude. If he violates those instructions, and concludes a different treaty, this government is not bound by it. And, if the foreign government is aware of the violation, it acts in bad faith. Or it may be illustrated by an example drawn from private life. I am an endorser for my friend on a note discounted in bank. He applies to me to endorse another to renew it, which I do in blank. Now, this gives him power to make any other use of my note which he pleases. But if, instead of applying it to the intended purpose, he goes to a broker and sells it, thereby doubling my responsibility for him, he commits a breach of trust, and a violation of the good faith implied in the whole transaction.

But, Mr. President, if this reasoning were as erroneous as I believe it to be correct and conclusive, is the affair of the liberation of six thousand negro slaves in this District, disconnected with the three millions of slaves in the United States, of sufficient magnitude to agitate, distract and embitter this great confederacy?

The next case in which the petitioners ask the exercise of the power of Congress, relates to slavery in the territory of Florida.

Florida is the extreme southern portion of the United States. It is bounded on all its land sides by slave states, and is several hundred miles from the nearest free state. It almost extends within the tropics, and the nearest important island to it on the water side is Cuba, a slave island. This simple statement of its geographical position should of itself decide the question.—When, by the treaty of 1819 with Spain, it was ceded to the United States, slavery existed within it. By the terms of that treaty, the effects and property of the inhabitants are secured to them, and they are allowed to remove and take them away, if they think proper to do so, without limitation as to time. If it were expedient, therefore, to abolish slavery in it, it could not be

done consistently with the treaty, without granting to the ancient inhabitants a reasonable time to remove their slaves. But further: By the compromise which took place on the passage of the act for the admission of Missouri into the Union, in the year 1820, it was agreed and understood that the line of 36 deg. 30 min. of north latitude should mark the boundary between the free states and the slave states to be created in the territories of the United States ceded by the treaty of Louisiana; those situated south of it being slave states, and those north of it, free states. But Florida is south of that line, and consequently, according to the spirit of the understanding which prevailed at the period alluded to, should be a slave state. It may be true that the compromise does not in terms embrace Florida, and that it is not absolutely binding and obligatory; but all candid and impartial men must agree that it ought not to be disregarded without the most weighty considerations, and that nothing could be more to be deprecated than to open anew the bleeding wounds which were happily bound up and healed by that compromise. Florida is the only remaining territory to be admitted into the Union with the institution of domestic slavery, while Wisconsin and Iowa are now nearly ripe for admission without it.

The next instance in which the exercise of the power of Congress is solicited, is that of prohibiting what is denominated by the petitioners the slave trade between the states, or, as it is described in abolition petitions, the traffic in human beings between the states. This exercise of the power of Congress is claimed under that clause of the constitution which invests it with authority to regulate commerce with foreign nations, and among the several states, and with the Indian tribes. The power to regulate commerce among the several states, like other powers in the constitution, has hitherto remained dormant in respect to the interior trade by land between the states. It was a power granted like all the other powers of the general government, to secure peace and harmony among the states. Hitherto it has not been necessary to exercise it. All the cases in which, during the progress of time it may become expedient to exert the general authority to regulate commerce between the states, cannot be conceived. We may easily imagine, however, contingencies which, if they were to happen, might require the interposition of the common authority. If, for example, the state of Ohio were, by law, to prohibit any vessel entering the port of Cincinnati, from the port of Louisville, in Kentucky, if that case be not already provided for by the laws which regulate our coasting trade, it would be competent to the general government to annul the prohibition emanating from state authority. Or, if the state of Kentucky were to prohibit the introduction, within its limits, of any articles of trade, the production of the industry of the inhabitants of the state of Ohio, the general government might, by its authority, supersede the state enactment. But I deny that the general government has any authority, whatever, from the

constitution, to abolish what is called the slave trade, or, in other words, to prohibit the removal of slaves from one slave state to another slave state.

The grant in the constitution is of a power of regulation, and not prohibition. It is conservative, not destructive. Regulation *ex vi termini* implies the continued existence or prosecution of the thing regulated. Prohibition implies total discontinuance or annihilation. The regulation intended was designed to facilitate and accommodate, not to obstruct and incommode the commerce to be regulated. Can it be pretended that, under this power to regulate commerce among the states, Congress has the power to prohibit the transportation of live stock which, in countless numbers, are daily passing from the western and interior states to the southern, southwestern, and Atlantic states? The moment the incontestible fact is admitted, that negro slaves are property, the law of moveable property irresistibly attaches itself to them, and secures the right of carrying them from one to another state, where they are recognized as property, without any hindrance whatever from Congress.

But, Mr. President, I will not detain the Senate longer on the subjects of slavery within the district and in Florida, and of the right of Congress to prohibit the removal of slaves from one state to another. These, as I have already intimated, with ultra abolitionists are but so many masked batteries, concealing the real and ultimate point of attack. That point of attack is the institution of domestic slavery as it exists in these states. It is to liberate three millions of slaves held in bondage within them. And now allow me, sir, to glance at the insurmountable obstacles which lie in the way of the accomplishment of this end, and at some of the consequences which would ensue if it were possible to attain it.

The first impediment is the utter and absolute want of all power on the part of the general government to effect the purpose. The constitution of the United States creates a limited government, comprising comparatively few powers, and leaving the residuary mass of political power in the possession of the several states. It is well known that the subject of slavery interposed one of the greatest difficulties in the formation of the constitution. It was happily compromised and adjusted in a spirit of harmony and patriotism. According to that compromise, no power whatever was granted to the general government in respect to domestic slavery, but that which relates to taxation and representation, and the power to restore fugitive slaves to their lawful owners. All other power in regard to the institution of slavery was retained exclusively by the states, to be exercised by them severally, according to their respective views of their own peculiar interest. The constitution of the United States never could have been formed upon the principle of investing the general government with authority to abolish

the institution at its pleasure. It never can be continued for a single day if the exercise of such a power be assumed or usurped.

But it may be contended by these ultra-abolitionists that their object is not to stimulate the action of the general government, but to operate upon the states themselves in which the institution of domestic slavery exists. If that be their object, why are these abolition societies and movements all confined to the free states? Why are the slave states wantonly and cruelly assailed? Why do the abolition presses teem with publications tending to excite hatred and animosity on the part of the inhabitants of the free states against those of the slave states? Why is Congress petitioned? The free states have no more power or right to interfere with institutions in the slave states, confided to the exclusive jurisdiction of those states, than they would have to interfere with institutions existing in any foreign country. What would be thought of the formation of societies in Great Britain, the issue of numerous inflammatory publications, and the sending out of lecturers throughout the kingdom, denouncing and aiming at the destruction of any of the institutions of France? Would they be regarded as proceedings warranted by good neighborhood? Or what would be thought of the formation of societies in the slave states, the issuing of violent and inflammatory tracts, and the deputation of missionaries, pouring out impassioned denunciations against institutions under the exclusive control of the free states? Is their purpose to appeal to our understandings, and to actuate our humanity? And do they expect to accomplish that purpose by holding us up to the scorn, and contempt, and detestation of the people of the free states and the whole civilized world? The slavery which exists amongst us is our affair, not theirs; and they have no more just concern with it than they have with slavery as it exists throughout the world. Why not leave it to us, as the common constitution of our country has left it, to be dealt with, under the guidance of Providence, as best we may or can?

The next obstacle in the way of abolition arises out of the fact of the presence in the slave states of three millions of slaves. They are there, dispersed throughout the land, part and parcel of our population. They were brought into the country originally under the authority of the parent government whilst we were colonies, and their importation was continued in spite of all the remonstrances of our ancestors. If the question were an original question, whether, there being no slaves within the country, we should introduce them, and incorporate them into our society, that would be a totally different question. Few, if any, of the citizens of the United States would be found to favor their introduction. No man in it would oppose, upon that supposition, their admission with more determined resolution and conscientious repugnance than I should. But that is not the question. The slaves are here; no practical scheme for their removal or separation from us has been yet devised or proposed; and the

true inquiry is, what is best to be done with them. In human affairs we are often constrained, by the force of circumstances and the actual state of things, to do what we would not do if that state of things did not exist. The slaves are here, and here must remain, in some condition; and, I repeat, how are they to be best governed? What is best to be done for their happiness and our own? In the slave states the alternative is, that the white man must govern the black, or the black govern the white. In several of those states, the number of the slaves is greater than that of the white population. An immediate abolition of slavery in them, as these ultra abolitionists propose, would be followed by a desperate struggle for immediate ascendancy of the black race over the white race, or rather it would be followed by instantaneous collisions between the two races, which would break out into a civil war that would end in the extermination or subjugation of the one race or the other. In such an alternative, who can hesitate? Is it not better for both parties that the existing state of things should be preserved, instead of exposing them to the horrible strifes and contests which would inevitably attend an immediate abolition? This is our true ground of defence for the continued existence of slavery in our country. It is that which our revolutionary ancestors assumed. It is that which, in my opinion, forms our justification in the eyes of all Christendom.

A third impediment to immediate abolition is to be found in the immense amount of capital which is invested in slave property. The total number of slaves in the United States, according to the last enumeration of the population, was a little upwards of two millions. Assuming their increase at a ratio, which it probably is, of five per cent. per annum, their present number would be three millions. The average value of slaves at this time is stated by persons well informed to be as high as five hundred dollars each. To be certainly within the mark, let us suppose that it is only four hundred dollars. The total value, then, by that estimate, of the slave property in the United States is twelve hundred millions of dollars. This property is diffused throughout all classes and conditions of society. It is owned by widows and orphans, by the aged and infirm, as well as the sound and vigorous. It is the subject of mortgages, deeds of trust, and family settlements. It has been made the basis of numerous debts contracted upon its faith, and is the sole reliance, in many instances, of creditors within and without the slave states, for the payment of the debts due to them. And now it is rashly proposed, by a single fiat of legislation, to annihilate this immense amount of property! To annihilate it without indemnity and without compensation to its owners! Does any considerate man believe it to be possible to effect such an object without convulsion, revolution, and bloodshed?

I know that there is a visionary dogma, which holds that negro slaves cannot be the subject of property. I shall not dwell



long on this speculative abstraction. That is property which the law declares to be property. Two hundred years of legislation have sanctioned and sanctified negro slaves as property. Under all the forms of government which have existed upon this continent during that long space of time—under the British government—under the colonial government—under all the state constitutions and governments—and under the Federal government itself—they have been deliberately and solemnly recognized as the legitimate subjects of property. To the wild speculations of theorists and innovators stands opposed the fact, that in an uninterrupted period of two hundred years' duration, under every form of human legislation, and by all the departments of human government, African negro slaves have been held and respected, have descended and been transferred, as lawful and indisputable property. They were treated as property in the very British example which is so triumphantly appealed to as worthy of our imitation. Although the West India planters had no voice in the united parliament of the British Isles, an irresistible sense of justice extorted from that legislature the grant of twenty millions of pounds sterling to compensate the colonists for their loss of property.

If, therefore, these ultra abolitionists are seriously determined to pursue their immediate scheme of abolition, they should at once set about raising a fund of twelve hundred millions of dollars, to indemnify the owners of slave property. And the taxes to raise that enormous amount can only be justly assessed upon themselves or upon the free states, if they can persuade them to assent to such an assessment; for it would be a mockery of all justice and an outrage against all equity to levy any portion of the tax upon the slave states to pay for their own unquestioned property.

If the considerations to which I have already adverted are not sufficient to dissuade the abolitionists from further perseverance in their designs, the interest of the very cause which they profess to espouse ought to check their career. Instead of advancing, by their efforts, that cause, they have thrown back for half a century the prospect of any species of emancipation of the African race, gradual or immediate in any of the states. They have done more; they have increased the rigors of legislation against slaves in most, if not all, of the slave states. Forty years ago the question was agitated in the state of Kentucky of a gradual emancipation of the slaves within its limits. By gradual emancipation, I mean that slow but safe and cautious liberation of slaves which was first adopted in Pennsylvania at the instance of Dr. Franklin, in the year 1780, and according to which, the generation in being were to remain in slavery, but all their offspring born after a specified day were to be free at the age of twenty-eight, and, in the mean time, were to receive preparatory instruction to qualify them for the enjoyment of freedom. That was the species of emancipation which, at the epoch to which I allude, was discussed in Kentucky. No one was rash enough to

propose to think of immediate abolition. No one was rash enough to think of throwing loose upon the community, ignorant and unprepared, the untutored slaves of the state. Many thought, and I amongst them, that as each of the slave states had a right exclusively to judge for itself in respect to the institution of domestic slavery, the proportion of slaves compared with the white population in that state, at that time, was so inconsiderable that a system of gradual emancipation might have been safely adopted without any hazard to the security and interests of the commonwealth. And I still think that the question of such emancipation in the farming states is one whose solution depends upon the relative numbers of the two races in any given state. If I had been a citizen of the state of Pennsylvania, when Franklin's plan was adopted, I should have voted for it, because by no possibility could the black race ever acquire the ascendancy in that state. But if I had been then, or were now, a citizen of any of the planting states—the southern or southwestern states—I should have opposed, and would continue to oppose, any scheme whatever of emancipation, gradual or immediate, because of the danger of an ultimate ascendancy of the black race, or of a civil contest which might terminate in the extinction of one race or the other.

The proposition in Kentucky for a gradual emancipation did not prevail, but it was sustained by a large and respectable minority. That minority had increased and was increasing, until the abolitionists commenced their operations. The effect has been to dissipate all prospects whatever, for the present, of any scheme of gradual or other emancipation. The people of that state have become shocked and alarmed by these abolition movements, and the number who would now favor a system even of gradual emancipation is probably less than it was in the years 1798-'9. At the session of the Legislature held in 1837-'8, the question of calling a Convention was submitted to the consideration of the people by a law passed in conformity with the constitution of the state. Many motives existed for the passage of the law, and, among them, that of emancipation had its influence. When the question was passed upon by the people at their last annual election, only about one-fourth of the whole voters of the state supported a call of a Convention. The apprehension of the danger of abolition was the leading consideration amongst the people for opposing the call. But for that, but for the agitation of the question of abolition in states whose population had no right, in the opinion of the people of Kentucky, to interfere in the matter, the vote for a Convention would have been much larger, if it had not been carried. I felt myself constrained to take immediate, bold and decided ground against it.

Prior to the agitation of this subject of abolition, there was a progressive melioration in the condition of slaves throughout all the slave states. In some of them, schools of instruction were

opened by humane and religious persons. These are all now checked, and a spirit of insubordination having shown itself in some localities, traceable, it is believed, to abolition movements and exertions, the legislative authority has found it expedient to infuse fresh vigor into the police, and laws which regulate the conduct of the slaves.

And now, Mr. President, if it were possible to overcome the insurmountable obstacles which lie in the way of immediate abolition, let us briefly contemplate some of the consequences which would inevitably ensue. One of these has been occasionally alluded to in the progress of these remarks. It is the struggle which would instantaneously arise between the two races in most of the southern and south-western states. And what a dreadful struggle would it not be! Embittered by all the recollections of the past, by the unconquerable prejudices which would prevail between the two races, and stimulated by all the hopes and fears of the future, it would be a contest in which the extermination of the blacks, or their ascendancy over the whites, would be the sole alternative. Prior to the conclusion, or during the progress of such a contest, vast numbers, probably, of the black race would migrate into the free states; and what effect would such a migration have upon the laboring classes in those states!

Now the distribution of labor in the United States is geographical; the free laborers occupying one side of the line, and the slave laborers the other; each class pursuing its own avocations almost altogether unmixed with the other. But, on the supposition of immediate abolition, the black class, migrating into the free states, would enter into competition with the white class, diminishing the wages of their labor, and augmenting the hardships of their condition.

This is not all. The abolitionists strenuously oppose all separation of the two races. I confess to you, sir, that I have seen with regret, grief and astonishment, their resolute opposition to the project of colonization. No scheme was ever presented to the acceptance of man, which, whether it be entirely practicable or not, is characterized by more unmixed humanity and benevolence, than that of transporting, with their own consent, the free people of color in the United States to the land of their ancestors. It has the powerful recommendation that whatever it does is good; and, if it effects nothing, it inflicts no one evil or mischief upon any portion of our society. There is no necessary hostility between the objects of colonization and abolition. Colonization deals only with the free man of color, and that with his own free voluntary consent. It has nothing to do with slavery. It disturbs no man's property, seeks to impair no power in the slave states, nor to attribute any to the general government. All its action and all its ways and means are voluntary, depending upon the blessing of Providence, which hitherto has graciously smiled upon it. And yet, beneficent and harmless as

colonization is, no portion of the people of the United States denounces it with so much persevering zeal and such unmixed bitterness as do the abolitionists.

They put themselves in direct opposition to any separation whatever between the two races. They would keep them forever pent up together within the same limits, perpetuating their animosities, and constantly endangering the peace of the community. They proclaim, indeed, that color is nothing; that the organic and characteristic differences between the two races ought to be entirely overlooked and disregarded. And, elevating themselves to a sublime but impracticable philosophy, they would teach us to eradicate all the repugnances of our nature, and to take to our bosoms and our boards the black man as we do the white, on the same footing of equal social condition. Do they not perceive that in thus confounding all the distinctions which God himself has made, they arraign the wisdom and goodness of Providence itself? It has been his divine pleasure to make the black man black, and the white man white, and to distinguish them by other repulsive constitutional differences. It is not necessary for me to maintain, nor shall I endeavor to prove, that it was any part of his divine intention that the one race should be held in perpetual bondage by the other; but this I will say, that those whom he has created different, and has declared, by their physical structure and color, ought to be kept asunder, should not be brought together by any process whatever of unnatural amalgamation.

But if the dangers of the civil contest which I have supposed could be avoided, separation or amalgamation is the only peaceful alternative, if it were possible to effectuate the project of abolition. The abolitionists oppose all colonization, and it irresistibly follows, whatever they may protest or declare, that they are in favor of amalgamation. And who are to bring about this amalgamation? I have heard of none of these ultra abolitionists furnishing in their own families or persons examples of intermarriage. Who is to begin it? Is it their purpose not only to create a pinching competition between black labor and white labor, but do they intend also to contaminate the industrious and laboring classes of society at the north, by a revolting admixture of the black element?

It is frequently asked, what is to become of the African race among us? Are they forever to remain in bondage? That question was asked more than half a century ago. It has been answered by fifty years of prosperity but little chequered from this cause. It will be repeated fifty or a hundred years hence. The true answer is, that the same Providence who has hitherto guided and governed us, and averted all serious evils from the existing relation between the two races, will guide and govern our posterity. Sufficient to the day is the evil thereof. We have hitherto, with that blessing, taken care of ourselves. Posterity will find the means of its own preservation and prosperity.

It is only in the most direful event which can befall this people that this great interest, and all other of our greatest interests, would be put in jeopardy. Although in particular districts the black population is gaining upon the white, it only constitutes one-fifth of the whole population of the United States. And, taking the aggregates of the two races, the European is constantly, though slowly, gaining upon the African portion. This fact is demonstrated by the periodical returns of our population. Let us cease, then, to indulge in gloomy forebodings about the impenetrable future. But, if we may attempt to lift the veil, and contemplate what lies beyond it, I, too, have ventured on a speculative theory, with which I will not now trouble you, but which has been published to the world. According to that, in the progress of time, some one hundred and fifty or two hundred years hence, but few vestiges of the black race will remain among our posterity.

Mr. President, at the period of the formation of our constitution, and afterwards, our patriotic ancestors apprehended danger to the Union from two causes. One was, the Alleghany mountains, dividing the waters which flow into the Atlantic ocean from those which found their outlet in the Gulf of Mexico. They seemed to present a natural separation. That danger has vanished before the noble achievements of the spirit of internal improvement, and the immortal genius of Fulton. And now, no where is found a more loyal attachment to the Union than among those very western people, who, it was apprehended, would be the first to burst its ties.

The other cause, domestic slavery, happily the sole remaining cause which is likely to disturb our harmony, continues to exist. It was this which created the greatest obstacle and the most anxious solicitude in the deliberations of the convention that adopted the general constitution. And it is this subject that has ever been regarded with the deepest anxiety by all who are sincerely desirous of the permanency of our Union. The father of his country, in his last affecting and solemn appeal to his fellow-citizens, deprecated, as a most calamitous event, the geographical divisions which it might produce. The convention wisely left to the several states the power over the institution of slavery, as a power not necessary to the plan of union which it devised, and as one with which the general government could not be invested without planting the seeds of certain destruction. There let it remain undisturbed by any unhallowed hand.

Sir, I am not in the habit of speaking lightly of the possibility of dissolving this happy Union. The Senate knows that I have deprecated allusions, on ordinary occasions, to that direful event. The country will testify that, if there be any thing in the history of my public career worthy of recollection, it is the truth and sincerity of my ardent devotion to its lasting preservation. But we should be false in our allegiance to it, if we did not discriminate between the imaginary and real dangers by which it may be as-

sailed. Abolition should no longer be regarded as an imaginary danger. The abolitionists, let me suppose, succeed in their present aim of uniting the inhabitants of the free states as one man, against the inhabitants of the slave states. Union on the one side will beget union on the other. And this process of reciprocal consolidation will be attended with all the violent prejudices, embittered passions, and implacable animosities which ever degraded or deformed human nature. A virtual dissolution of the Union will have taken place, whilst the forms of its existence remain. The most valuable element of union, mutual kindness, the feelings of sympathy, the fraternal bonds, which now happily unite us, will have been extinguished forever. One section will stand in menacing and hostile array against the other. The collision of opinion will be quickly followed by the clash of arms. I will not attempt to describe scenes which now happily lie concealed from our view. Abolitionists themselves would shrink back in dismay and horror at the contemplation of desolated fields, conflagrated cities, murdered inhabitants, and the overthrow of the fairest fabric of human government that ever rose to animate the hopes of civilized man. Nor should these abolitionists flatter themselves that, if they can succeed in their object of uniting the people of the free states, they will enter the contest with a numerical superiority that must ensure victory. All history and experience proves the hazard and uncertainty of war. And we are admonished by holy writ that the race is not to the swift, nor the battle to the strong. But if they were to conquer, whom would they conquer? A foreign foe—one who had insulted our flag, invaded our shores, and laid our country waste? No, sir; no, sir. It would be a conquest without laurels, without glory—a self, a suicidal conquest—a conquest of brothers over brothers, achieved by one over another portion of the descendants of common ancestors, who, nobly pledging their lives, their fortunes, and their sacred honor, had fought and bled, side by side, in many a hard battle on land and ocean, severed our country from the British crown, and established our national independence.

The inhabitants of the slave states are sometimes accused by their northern brethren with displaying too much rashness and sensibility to the operations and proceedings of abolitionists. But, before they can be rightly judged, there should be a reversal of conditions. Let me suppose that the people of the slave states were to form societies, subsidize presses, make large pecuniary contributions, send forth numerous missionaries throughout all their own borders, and enter into machinations to burn the beautiful capitals, destroy the productive manufactories, and sink in the ocean the gallant ships of the northern states. Would these incendiary proceedings be regarded as neighborly and friendly, and consistent with the fraternal sentiments which should ever be cherished by one portion of the Union towards another? *What then would be the result?* Occasion no manifestations of

dissatisfaction, nor lead to any acts of retaliatory violence? But the supposed case falls far short of the actual one in a most essential circumstance. In no contingency could these capitals, manufactories, and ships rise in rebellion and massacre inhabitants of the northern states.

I am, Mr. President, no friend of slavery. The searcher of all hearts knows that every pulsation of mine beats high and strong in the cause of civil liberty. Wherever it is safe and practicable, I desire to see every portion of the human family in the enjoyment of it. But I prefer the liberty of my own country to that of any other people; and the liberty of my own race to that of any other race. The liberty of the descendants of Africa in the United States is incompatible with the safety and liberty of the European descendants. Their slavery forms an exception—an exception resulting from a stern and inexorable necessity—to the general liberty in the United States. We did not originate, nor are we responsible for, this necessity. Their liberty, if it were possible, could only be established by violating the incontestable powers of the states, and subverting the Union. And beneath the ruins of the Union would be buried, sooner or later, the liberty of both races.

But if one dark spot exists on our political horizon, is it not obscured by the bright and effulgent and cheering light that beams all around us? Was ever a people before so blessed as we are, if true to ourselves? Did ever any other nation contain within its bosom so many elements of prosperity, of greatness, and of glory? Our only real danger lies ahead, conspicuous, elevated, and visible. It was clearly discerned at the commencement, and distinctly seen throughout our whole career.—Shall we wantonly run upon it, and destroy all the glorious anticipations of the high destiny that awaits us? I beseech the abolitionists themselves solemnly to pause in their mad and fatal course. Amidst the infinite variety of objects of humanity and benevolence which invite the employment of their energies, let them select some one more harmless, that does not threaten to deluge our country in blood. I call upon that small portion of the clergy, which has lent itself to these wild and ruinous schemes, not to forget the holy nature of the divine mission of the Founder of our religion, and to profit by his peaceful examples. I entreat that portion of my countrywomen who have given their countenance to abolition, to remember that they are ever most loved and honored when moving in their own appropriate and delightful sphere; and to reflect that the ink which they shed in subscribing with their fair hands abolition petitions, may prove but the prelude to the shedding of the blood of their brethren. I adjure all the inhabitants of the free states to rebuke and discountenance, by their opinion and their example, measures which must inevitably lead to the most calamitous consequences. And let us all, as countrymen, as friends, and as brothers, cherish in unfading memory the motto which bore our ancestors triumphantly



through all the trials of the revolution, as, if adhered to, it will conduct their posterity through all that may, in the dispensations of Providence, be reserved for them.

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## ON THE DISTRIBUTION OF THE PROCEEDS OF THE PUBLIC LANDS.

*Thursday, January 28, 1841.*

The Pre-emption Bill being under consideration, and the question being on Mr. Crittenden's motion to re-commit the bill with instructions to engraft on it an amendment for the distribution of the proceeds of the public lands among the States—

Mr. Clay, of Kentucky, rose and addressed the Senate substantially as follows:

With the measure of the distribution of the proceeds of the sales of the public lands among the states of the Union, I have been so associated for the last eight or ten years, that, although it had not been my original purpose to say one word in respect to that measure at the present session of Congress, the debate on my colleague's motion has taken such a wide range that my silence might be construed into indifference or an abandonment, on my part, of what I conscientiously believe to be one of the most important and beneficial measures ever submitted to the consideration of an American Congress. I did not intend to move in the matter at this session, because of the extraordinary state of parties and of public affairs. The party against which the people of the United States had recently pronounced decisive judgment, was still in power, and had majorities in both houses of Congress. It had been always opposed to the distribution bill. The new administration, to which a majority of the people of the United States had given its confidence, had not yet the possession of power, and, prior to the fourth of March next, can do nothing to fulfil the just expectations of the country. The Treasury is exhausted and in a wretched condition. I was aware that its state would be urged as a plausible plea against present distribution—urged even by a party, prominent members of which had heretofore protested against any reliance whatever on the public lands as a source of revenue. Now, although I do not admit the right of Congress to apply the proceeds of all the public lands, consistently with the terms of the deeds of cession from Virginia and the other ceding states, to the purposes of ordinary revenue of government, yet Congress being in the habit of making such an application, I was willing to acquiesce in the continuation of the habit until, I hope at some early day, a suitable provision can be made for the exchequer out of some more appropriate and legitimate source than the public lands.

The distribution proposed by my colleague can be made, and, if no other Senator does, I will propose to make it, to commence on the first day of January next, leaving the proceeds of the lands of the current year applicable to the uses of the treasury. This will avoid the financial objection, as I hoped, prior to that day, that some permanent and adequate provision will be made to supply government with the necessary revenue. I shall therefore, vote for the proposition with that qualification since it has been introduced, although I had not intended to move it myself at this session.

I came to the present session of Congress under the hope that it would dedicate itself earnestly to the urgent and necessary work of such a repair of the shattered vessel of state as would put it in a condition to perform the glorious voyage which it will begin on the fourth of March next. I supposed, indeed, that all new and doubtful measures of policy would be avoided; but persuaded myself that a spirit of manliness, of honor, and of patriotism would prompt those who yet linger in power and authority at least to provide the necessary ways and means to defray the expenses of government, in the hands of their successors, during the present year, if not permanently. But I confess with pain that my worst fears are about to be realized. The administration not only perseveres in the errors which have lost it the public confidence, but refuses to allow its opponents to minister, in any way, to the sufferings of the community or the necessities of the government. Our constitution is defective, in allowing those to remain in authority three or four months after the people have pronounced judgment against them; or rather the convention did not foresee the possibility of the existence of an administration which would deliberately treat with neglect and contempt the manifest sentiments of their constituents. It did not imagine that an administration could be so formed as that, although smarting under a terrible but merited defeat, it would, in the spirit of the ancient fable, doggedly hold on to power, refusing to use it, or to permit others to use it, for the benefit of the people.

We have just had read to us a lecture from the honorable and highly respectable senator from New Hampshire, (Mr. Pierce,) which ought to have been exclusively addressed to his own friends. He tells us that we are wasting our time in party debate, and that a measure is always got up at the commencement of every session on which a general political battle is fought, to the exclusion of all important public business. There is some truth in the charge; and, if it be wrong, who ought to be held responsible for it? Clearly those to whom the administration of the government has been entrusted, and who have majorities in both houses of Congress. What has been the engrossing subject of this session? The permanent pre-emption bill. Who introduced it, and why was it introduced? Not my friends but the senator's. And it has been brought up when

there is an operating pre-emption law in existence, which has a long time to run. After the debate had been greatly protracted, and after one administration Senator had notified the officers of the chamber that they might get their lamps in order, and another had declared that they were ready to encamp on the ground until the bill was passed, why has the debate been permitted to continue weeks longer, without explanation, and to the surprise of every one on this side of the Senate? Why has more than half the session been consumed with this single and unnecessary subject? I would ask that Senator, who assumes the right to lecture us all, why he concurred in pressing on the Senate this uncalled for measure? Yes, sir, my worst fears are about to be realized. Nothing will be done for the country during this session. I did hope that, if the party in power would not, in some degree, atone for past misdeeds during the remnant of their power, they would at least give the new administration a fair trial, and forbear all denunciation or condemnation of it in advance. But has this been their equitable course? Before the new President had entered upon the duties of his office, gentlemen who have themselves contributed to bring the country to the brink of ruin, (they will pardon me for saying it, but the truth must be spoken,) these very gentlemen are decrying beforehand those measures of the coming administration which are indispensable, and which they must know to be indispensable, to restore the public happiness and prosperity! The honorable Senator in my eye, (Mr. Wright,) said, in so many words, that he meant to condemn this measure of distribution *in advance*.

[Mr. Wright shook his head.]

I have taken down the Senator's words, and have them here on my notes.

[Mr. WRIGHT. If the honorable Senator will permit me, I will tell him what I said. I said that the course of his friends had forced the consideration of this measure on us *in advance*.]

Forced it on *them* in advance! How? Projects to squander the public domain are brought forward by friends of the administration, in the form of a graduation bill, by which fifty millions in value of a portion of it would have been suddenly annihilated: pre-emption bills, cessions to a few of the states of the whole within their limits. Under these circumstances, my colleague presents a conservative measure, and proposes, in lieu of one of these wasteful projects by way of amendment, an equitable distribution among all the states of the avails of the public lands. With what propriety then can it be said that we, who are acting solely on the defensive, have *forced* the measure upon our opponents? Let them withdraw their bill, and I will answer for it that my colleague will withdraw his amendment, and will not, at this session, press any measure of distribution. No, sir, no. The policy of gentlemen on the other side, the clearly defined

and distinctly marked policy, is, to condemn, in advance, those measures which their own sagacity enables them to perceive that the new administration, faithful to their own principles and to the best interests of the country, must bring forward to build up once more the public prosperity. How, otherwise, are we to account for opposition, from leading friends of the administration, to the imposition of duties on the merest luxuries in the world? It is absolutely necessary to increase the public revenue. That is incontestable. It can only be done by the imposition of duties on the protected articles, or on the free articles, including those of luxury; for no one, I believe, in the Senate, dreams of laying a direct tax. Well; if duties were proposed on the protected articles, the proposition would instantly be denounced as reviving a high tariff. And when they are proposed on silks and wines, Senators on the other side raise their voices in opposition to duties on these articles of incontestable luxury. These, moreover, are objects of consumption chiefly with the rich, and they, of course, would pay the principal part of the duty. But the exemption of the poor from the burden does not commend the measure to the acceptance of the friends of this expiring administration. And yet they, sometimes, assume to be guardians of the interests of the poor. Guardians of the poor! Their friendship was demonstrated at a former session by espousing a measure which was to have the tendency of reducing wages, and now they put themselves in opposition to a tax which would benefit the poor, and fall almost exclusively on the rich.

I will not detain the Senate now by dwelling on the ruinous state of the trade with France, in silks and wines especially, as it is now carried on. But I cannot forbear observing, that we import from France and her dependencies thirty-three millions of dollars annually, whilst we export in return only about nineteen millions, leaving a balance against us, in the whole trade, of fourteen millions of dollars; and, excluding the French dependencies, the balance against us in the direct trade, with France, is seventeen millions. Yet gentlemen say we must not touch this trade! We must not touch a trade with such a heavy and ruinous balance against us—a balance, a large part, if not the whole, of which is paid in specie. I have been informed, and believe, that the greater part of the gold which was obtained from France under the treaty of indemnity, and which, during General Jackson's administration, was with so much care and parade introduced into the United States, perhaps under the vain hope that it would remain here, in less than eighteen months was re-exported to France in the very boxes in which it was brought, to liquidate our commercial debt. Yet we must not supply the indispensable wants of the treasury by taxing any of the articles of this disadvantageous commerce! And some gentlemen, assuming not merely the guardianship of the poor, but of the south also, (with about as much fidelity in the one case as in

the other,) object to the imposition of duties upon these luxuries, because they might affect somewhat the trade with France in a southern staple. But duties upon any foreign imports may affect, in some small degree, our exports. If the objection, therefore, be sustained, we must forbear to lay any imposts, and rely, as some gentlemen are understood to desire, on direct taxes. But to this neither the country nor Congress will ever consent. We have hitherto resorted mainly, and I have no doubt always will resort, to our foreign imports for revenue. And can any objects be selected with more propriety than those which enter so largely into the consumption of the opulent? It is of more consequence to the community, in the consideration of duties, who consumes the articles charged with them, and consequently, who pays them, than how the dutied articles are purchased abroad. The south is the last place from which an objection should come on the score of disproportionate consumption. I venture to assert that there is more champagne wine consumed in the Astor House, in the city of New-York, in one year, than in any state south of the Potomac. [A laugh.] Our total amount of imports last year was \$104,000,000. Deducting the free articles, the amount of goods subject to duty was probably not more than between fifty and sixty millions. Now, if we are to adhere to the compromise of the tariff, which it is my wish to be able to do, but concerning which I have remarked lately a portentous silence on the part of some of its professing friends on the other side, it will be recollected that the maximum of any duty to be imposed is twenty per cent. after June, 1842. It would not be safe to assume our imports in future of articles that would remain for consumption, and not be re-exported, higher than one hundred millions, twenty per cent. on which would yield a gross revenue annually of twenty millions. But I think that we ought not to estimate our imports at more than ninety millions; for, besides other causes that must tend to diminish them, some ten or twelve millions of our exports will be applied annually to the payment of interest or principal of our state debts held abroad, and will not return in the form of imports. Twenty per cent. upon ninety millions would yield a gross revenue of eighteen millions only. Thus it is manifest that there must be additional duties. And I think it quite certain that the amount of necessary revenue cannot be raised without going up to the limit of the compromise upon all articles whatever which, by its terms, are liable to duty. And these additional duties ought to be laid now, forthwith, clearly before the close of the session. The revenue is now deficient, compelling the administration to resort to the questionable and dangerous use of treasury notes. Of this deficient revenue, there will go off five millions during the next session of Congress, according to the estimate of the Secretary of the Treasury, two and a half millions on the 31st December, 1841, and two and a half millions more on the 30th June, 1842. This reduction takes place under that provision of

the compromise act by which one-half the excess of all duties beyond twenty per cent. is repealed on the last day of this year and the other moiety of that excess on the last day of June, 1842. Now, if Congress does not provide for this great deficiency in the revenue prior to the close of the present session, how is it possible to provide for it in season at the session which begins on the first Monday in December next? No great change in the customs ought to be made without reasonable notice to the merchant, to enable him to adapt his operations to the change. How is it possible to give this notice, if nothing is done until the next regular meeting of Congress? Waiving all notice to the merchant, and adverting merely to the habits of Congress, is it not manifest that no revenue bill can be passed by the last day of December, at a session commencing on the first Monday of that month? How, then, can gentlemen who have, at least, the temporary possession of the government, reconcile it to duty and to patriotism to go home and leave it in this condition? I heard the Senator from Pennsylvania, (Mr. Buchanan,) at the last session, express himself in favor of a duty on wines and silks. Why is he now silent? Has he, too, changed his opinion?

[Mr. Buchanan. I have changed none of my opinions on the subject.]

I am glad, most happy, to hear it. Then the Senator ought to unite with us in the imposition of duties sufficient to produce an adequate revenue. Yet his friends denounce, in advance, the idea of imposing duties on articles of luxury! They denounce distribution! They denounce an extra session, after creating an absolute necessity for it! They denounce all measures to give us a sound currency but the Sub-Treasury, denounced by the people! They denounce the administration of President Harrison before it has commenced! Parting from the power of which the people have stript them with regret and reluctance, and looking all around them with sullenness, they refuse to his administration that fair trial which the laws allow to every arraigned culprit. I hope that gentlemen will reconsider this course, and that, out of deference to the choice of the people, if not from feelings of justice and propriety, they will forbear to condemn before they have heard President Harrison's administration. If gentlemen are for peace and harmony, we are prepared to meet them in a spirit of peace and harmony, to unite with them in healing the wounds and building up the prosperity of the country. But if they are for war, as it seems they are, I say, "Lay on, Macduff."

[Sensation, and a general murmuring sound throughout the chamber and galleries.]

One argument of the honorable Senator who has just taken his seat, (Mr. Wright) I wish to detach from the residue of his speech, that I may, at once, put it to sleep forever. With all his well known ability, and without meaning to be disrespectful, I

may add, with all his characteristic ingenuity and subtlety, he has urged that if you distribute the proceeds of the public lands, you arrogate to yourselves the power of taxing the people to raise money for distribution among the states; that there is no difference between revenue proceeding from the public lands and revenue from the customs; and that there is nothing in the constitution which allows you to lay duties on imports for the purpose of making up a deficiency produced by distributing the proceeds of the public lands.

I deny the position, utterly deny it, and I will refute it from the express language of the constitution. From the first, I have been of those who protested against the existence of any power in this government to tax the people for the purpose of a subsequent distribution of the money among the states. I still protest against it. There exists no such power. We invoke the aid of no such power in maintenance of the principle of distribution, applied to the proceeds of the sales of the public domain. But if such a power clearly existed, there would not be the slightest ground for the apprehension of its exercise. The imposition of taxes is always an unpleasant, sometimes a painful duty. What government will ever voluntarily incur the odium and consent to lay taxes, and become a tax gatherer, not to have the satisfaction of expending the money itself, but to distribute it among other governments, to be expended by them? But to the constitution.—Let us see whether the taxing power and the land power are, as the argument of the Senator assumes, identical and the same. What is the language of the constitution? “The Congress shall have power to lay and collect taxes, duties, imposts and excises, *to pay the debts and provide for the common defence and general welfare of the United States*; but all duties, imposts and excises shall be uniform throughout the United States.” Here is ample power to impose taxes; but the *object* for which the money is to be raised is specified. There is no authority whatever conveyed to raise money by taxation, for the purpose of subsequent distribution among the states, unless the phrase “general welfare” includes such a power. The doctrine, once held by a party upon whose principles the Senator and his friends now act, in relation to the Executive Department, that those phrases included a grant of power, has been long since exploded and abandoned. They are now, by common consent, understood to indicate a purpose and not to vest a power. The clause of the constitution, fairly construed and understood, means that the taxing power is to be exerted to raise money to enable Congress to pay the debts and provide for the common defence and general welfare. And it is to provide for the general welfare, in any exigency, by a fair exercise of the powers granted in the constitution. The Republican party of 1798, in whose school I was brought up, and to whose rules of interpreting the constitution I have ever adhered, maintained that this was a limited government; that it had no



powers but granted powers, or powers necessary and proper to carry into effect the granted powers; and that, in any given instance of the exercise of power, it was necessary to show the specific grant of it, or that the proposed measure was necessary and proper to carry into effect a specifically granted power or powers.

There is then, I repeat, no power or authority in the general government to lay and collect taxes in order to distribute the proceeds among the states. Such a financial project, if any administration were mad enough to adopt it, would be a flagrant usurpation. But how stands the case as to the land power? There is not in the whole constitution a single line or word that indicates an intention that the proceeds of the public lands should come into the public treasury to be used as a portion of the revenue of the government. On the contrary, the unlimited grant of power to raise revenue in all the forms of taxation, would seem to manifest that that was to be the source of supply, and not the public lands. But the grant of power to Congress over the public lands in the constitution is ample and comprehensive. "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This is a broad, unlimited, and plenary power, subject to no restriction other than a sound, practical, and statesmanlike discretion, to be exercised by Congress. It applies to all the territory and property of the United States, whether acquired by treaty with foreign powers, or by cessions of particular states, or however obtained. It cannot be denied that the right to dispose of the territory and property of the United States, includes a right to dispose of the proceeds of their territory and property, and consequently a right to distribute those proceeds among the states. If the general clause in the constitution allows and authorizes, as I think it clearly does, distribution among the several states, I will hereafter show that the conditions on which the states ceded to the United States can only now receive their just and equitable fulfilment by distribution.

The Senator from New-York argued that if the power contended for, to dispose of the territory and property of the United States, or their proceeds, existed, it would embrace the national ships, public buildings, magazines, dock-yards, and whatever else belonged to the government. And so it would. There is not a doubt of it; but when will Congress ever perpetrate such a folly as to distribute this national property? It annually distributes arms, according to a fixed rule, among the states, with great propriety. Are they not property belonging to the United States? To whose authority is the use of them assigned? To that of the States. And we may safely conclude that when it is expedient to distribute, Congress will make distribution, and when it is best to retain any national property, under the common authority, it will remain subject to it. I challenge the Senator, or

any other person, to show any limitation on the power of Congress to dispose of the territory or property of the United States or their proceeds, but that which may be found in the terms of the deeds of cession, or in a sound and just discretion. Come on; who can show it? Has it not been shown that the taxing power, by a specification of the objects for which it is to be exercised, excludes all idea of raising money for the purpose of distribution? And that the land power places distribution on a totally different footing? That no part of the proceeds of the public domain compose necessarily, or perhaps properly, a portion of the public revenue? What is the language of the constitution? That to pay the debts, provide for the common defence and general welfare of the United States, you may take the proceeds of the public lands? No, no. It says, for these ends, in other words, for the conduct of the government of the Union, you shall have power, unlimited as to amount and objects, to lay taxes. That is what it says; and if you go to the constitution, this is its answer. You have no right to go for power anywhere else.

Hereafter, I shall endeavor further to show that, by adopting the distribution principle, you do not exercise or affect the taxing power; that you will be setting no dangerous precedent, as is alledged; and that you will, in fact, only pay an honest debt to the states, too long withheld from them, and of which some of them now stand in the greatest need.

In the opposition to distribution, we find associated together the friends of pre-emption, the friends of graduation, and the friends of a cession of the whole of the public lands to a few of the states. Instead of reproaching us with a want of constitutional power to make an equitable and just distribution of the proceeds of the sales of the public lands among all the states, they would do well to point to the constitutional authority or to the page in the code of justice by which their projects are to be maintained. But it is not my purpose now to dwell on these matters. My present object is with the argument of the senator from New-York, and his friends, founded on financial considerations.

All at once these gentlemen seem to be deeply interested in the revenue derivable from the public lands. Listen to them now, and you would suppose that heretofore they had always been, and hereafter would continue to be, decidedly and warmly in favor of carefully husbanding the public domain, and obtaining from it the greatest practicable amount of revenue, for the exclusive use of the general government. You would imagine that none of them had ever espoused or sanctioned any scheme for wasting or squandering the public lands; that they regarded them as a sacred and inviolable fund, to be preserved for the benefit of posterity as well as this generation.

It is my intention now to unmask these gentlemen, and to show that their real system for the administration of the public

lands embraces no object of revenue, either in the general government or the states; that their purpose is otherwise to dispose of them; that the fever for revenue is an intermittent, which appears only when a bill to distribute the proceeds equally among all the states is pending; and that, as soon as that bill is got rid of, gentlemen relapse into their old projects of throwing away the public lands, and denouncing all objects of revenue from the public lands as unwise, illiberal, and unjust towards the new states. I will make all this good by the most incontrovertible testimony. I will go to the very highest authority in the dominant party during the last twelve years, and from that I will come down to the honorable senator from New-York and other members of the party. (I should not say come down; it is certainly not descending from the late President of the United States to approach the senator from New-York. If intellect is the standard by which to measure elevation, he would certainly stand far above the measure of the Hermitage.) I will show, by the most authentic documents, that the opponents of distribution, upon the principle now so urgently pressed, of revenue, are no bona fide friends of revenue from the public lands. I am afraid I shall weary the Senate, but I entreat it to bear patiently with me whilst I retrace the history of this measure of distribution.

You well recollect, sir, that some nine or ten years ago the subject of the public lands, by one of the most singular associations that was ever witnessed, was referred to the committee on manufactures, by one of the strangest parliamentary manoeuvres that was ever practised, for no other purpose than to embarrass the individual who now has the honor to address you, and who happened at that time to be a member of that committee. It was in vain that I protested against the reference, showed the total incongruity between the manufactures of the country and the public lands, and entreated gentlemen to spare us, and to spare themselves the reproaches which such a forced and unnatural connexion would bring upon them. It was all to no purpose; the subject was thrown upon the committee on manufactures, in other words, it was thrown upon me; for it was well known that although among my colleagues of the committee there might be those who were my superiors in other respects, owing to my local position, it was supposed that I possessed a more familiar knowledge with the public lands than any of them, when, in truth, mine was not considerable. There was another more weighty motive with the majority of the Senate for devolving the business on me. The zeal, and, perhaps, too great partiality of my friends had, about that time, presented my name for a high office. And it was supposed that no measure, for permanently settling the question of the public lands, could emanate from me that would not affect injuriously my popularity either with the new or the old states, or with both. I felt the embarrassment of the position in which I was placed; but I resolved

not to sink under it. I pulled off my coat, and went hard to work. I manufactured the measure for distributing equitably, in just proportions, the proceeds of the public lands among the several states. When reported from the committee, its reception in the Senate, in Congress, and in the country, was triumphant. I had every reason to be satisfied with the result of my labors, and my political opponents had abundant cause for bitter regrets at their indiscretion in wantonly throwing the subject on me. The bill passed the Senate, but was not acted upon in the house at that session. At the succeeding session it passed both houses. In spite of all those party connexions, which are, perhaps, the strongest ties that bind the human race, Jackson men, breaking loose from party thralldom, united with anti-Jackson men, and voted the bill by overwhelming majorities in both houses. If it had been returned by the President, it would have passed both houses by constitutional majorities, his veto notwithstanding. But it was a measure suggested, although not voluntarily, by an individual who shared no part in the President's counsels or his affections; and although he had himself, in his annual message, recommended a similar measure, he did not hesitate to change his ground in order to thwart my views. He knew, as I have always believed and have understood, that if he returned the bill, as by the constitution he was bound to do, it would become a law, by the sanction of the requisite majorities in the two houses. He resolved, therefore, upon an arbitrary course, and to defeat, by an irregular and unprecedented proceeding, what he could not prevent by reason and the legitimate action of the constitution. He resolved not to return the bill, and did not return it to Congress, but pocketed it!

I proceed now to the documentary proof which I promised. In his annual message of December 4, 1832, President Jackson says:

"Previous to the formation of our present constitution, it was recommended by Congress that a portion of the waste lands owned by the states should be ceded to the United States for the purposes of general harmony, and as a fund to meet the expenses of the war. The recommendation was adopted, and, at different periods of time, the states of Massachusetts, New-York, Virginia, North and South Carolina, and Georgia, granted their vacant soil for the uses for which they had been asked. As the lands may now be considered as relieved from this pledge, the object for which they were ceded having been accomplished, it is in the discretion of Congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people," &c. "It seems to me to be our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue," &c.

Thus, in December, 1832, President Jackson was of opinion, first, that the public lands were released from the pledge of them to the expenses of the revolutionary war. Secondly, that it was

in the power of Congress to dispose of them according to its discretion, in such way as best to conduce to the quiet, harmony, and general interest of the American people. And, thirdly, that the public lands should cease as soon as practicable to be a source of revenue.

So far from concurring in the argument, now insisted upon by his friends, for the sole purpose of defeating distribution, that the public lands should be regarded and cherished as a source of revenue, he was clearly of opinion that they should altogether cease to be considered as a source of revenue.

The measure of distribution was reported by me from the committee on manufactures, in April, 1832, and what was done with it? The same majority of the Senate which had so strangely discovered a congeniality between American manufactures and the public lands, instead of acting on the report, resolved to refer it to the committee on public lands, of which the senator from Alabama (Mr. King) was chairman; thus exhibiting the curious parliamentary anomaly of referring the report of one standing committee to another standing committee.

The chairman on the 15th May made a report from which many pertinent extracts might be made, but I shall content myself with one:

“This committee turn with confidence from the land offices to the custom-houses, and say, here are the true sources of Federal revenue! Give lands to the cultivator! And tell him to keep his money and lay it out in their cultivation!”

Now, Mr. President, bear in mind that this report made by the senator from Alabama embodies the sentiments of his party; that the measure of distribution which came from the committee on manufactures exhibited one system for the administration of the public lands, and that it was referred to the committee on public lands, to enable that committee to make an argumentative report against it, and to present their system—a counter or antagonist system. Well, this counter-system is exhibited, and what is it? Does it propose to retain and husband the public lands as a source of revenue? Do we hear any thing from that committee about the wants of the exchequer, and the expediency of economizing and preserving the public lands to supply them? No such thing. No such recommendation. On the contrary, we are deliberately told to avert our eyes from the land offices, and to fix them exclusively on the custom-houses as the true sources of federal revenue! Give away the public lands was the doctrine of that report. Give it to the cultivator and tell him to keep his money! And the party of the senator from New York, from that day to this, have adhered to that doctrine, except at occasional short periods, when the revenue fit has come upon them, and they have found it convenient, in order to defeat distribution, to profess great solicitude for the interests of the revenue.

Some of them, indeed, are too frank to make any such pro

fession. I should be glad to know from the senator from Alabama if he adheres to the sentiments of his report of 1832, and still thinks that the custom-houses and not the land offices are the true sources of federal revenue.

[Mr. King here nodded assent.]

I expected it. This re-avowal is honorable to the candor and independence of the senator. He does not go, then, with the revenue arguers. He does not go with the senator from New York, who speaks strongly in favor of the revenue from the public lands, and votes for every proposition to throw away the public lands.

During the whole progress of the bill of distribution through the Senate, as far as their sentiments were to be inferred from their votes, or were to be known by the positive declarations of some of them, the party dominant then and now acted in conformity with the doctrines contained in the report of their organ, (Mr. King.) Nevertheless the bill passed both houses of Congress by decisive majorities.

Smothered, as already stated, by President Jackson, he did not return it to the Senate until the fourth December, 1833. With it came his memorable veto message—one of the most singular omnibusses that was ever beheld—a strange vehicle that seemed to challenge wonder and admiration on account of the multitude of hands evidently employed in its construction, the impress of some of them smeared and soiled as if they were fresh from the kitchen. Hear how President Jackson lays down the law in this message :

“On the whole, I adhere to the opinion expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey and sale.” “I do not doubt that it is the real interest of each and all the states in the Union, and particularly of the new states, that the price of these lands shall be reduced and graduated; and that after they have been offered for a certain number of years, the refuse, remaining unsold, shall be abandoned to the states, and the machinery of our land system entirely withdrawn.”

These are the conclusions of the head of that party which has been dominant in this country for twelve years past. I say twelve, for the last four have been but as a codicil to the will, evincing a mere continuation of the same policy, purposes, and designs with that which preceded it. During that long and dismal period, we all know, too well that the commands of no major-general were ever executed with more implicit obedience than were the orders of President Jackson, or, if you please, the public policy as indicated by him. Now, in this message, he repeats that the public lands should cease to be a source of revenue, with a slight limitation as to the reimbursement of the charges of their administration; and adds that their price should

be reduced and graduated, and what he terms the refuse land should be ceded to the states within which it is situated. By the by, these refuse lands, according to statements which I have recently seen from the land office, have been the source of nearly one half—upwards of forty millions of dollars—of all the receipts from the public lands, and that, too, principally since the date of that veto message!

It is perfectly manifest that the consideration of revenue, now so earnestly pressed upon us by the friends of General Jackson, was no object with him in the administration of the public lands, and that it was his policy, by reduction of the price, by graduation, by pre-emptions, and by ultimate cessions, to get rid of them as soon as practicable. We have seen that the committee on the public lands and his party coincided with him. Of this, further testimony is furnished in the debates, in the early part of the year 1833, which took place on the distribution bill.

Mr. Kane, of Illinois, (a prominent administration Senator,) in that debate said:

“Should any further excuse be demanded for renewing again this discussion, I refer to the message of the President of the United States at the commencement of the present session, which, upon a comprehensive view of the general substantial interests of the confederacy, has, for the first time on the part of any Executive Magistrate of this country, declared: ‘It seems to me (says the President) *to be our true policy that the public lands shall cease as soon as practicable to be a source of revenue*, and that they should be sold to settlers in limited parcels, at a price barely sufficient to reimburse the United States the expense of the present system, and the cost arising under our Indian treaties,’” &c.

Mr. Buckner, (an administration Senator from Missouri,) also refers to the same message of President Jackson with approbation and commendation.

His colleague, (Mr. Benton,) in alluding, on that occasion, to the same message, says: “The President was right. His views were wise, patriotic and statesmanlike.” “He had made it clear, as he hoped and believed, that the President’s plan was right—that all idea of profit from the lands ought to be given up,” &c.

I might multiply these proofs, but there is no necessity for it. Why go back eight or nine years? We need only trust to our own ears, and rely upon what we almost now daily hear. Senators from the new states frequently express their determination to wrest from this government the whole of the public lands, denounce its alledged illiberality, and point exultingly to the strength which the next census is to bring to their policy. It was but the other day we heard the Senator from Arkansas (Mr. Sevier) express some of these sentiments. What were we told by that Senator? “We will have the public lands. We must have them, and we will *take* them in a few years.”

[Mr. SEVIER. So we will.]



Hear him! Hear him! He repeats it. Utters it in the ears of the revenue-pleading Senator (Mr. Wright) on my left. And yet he will vote against distribution.

I will come now to a document of more recent origin. Here it is—the work nominally of the Senator from Michigan, (Mr. Norvell,) but I take it, from the internal evidence it bears, to be the production of the Senator from South Carolina, over the way, (Mr. Calhoun.) This report, in favor of cession, proposes to cede, to the states within which the public lands are situated, one-third, retaining, nominally, two-thirds to the Union. Now, if this precedent of cession be once established, it is manifest that it will be applied to all new states as they are hereafter successively admitted into the Union. We begin with ceding one-third; we shall end in granting the whole.

[Mr. Calhoun asked Mr. Clay to read the portions of the report to which he alluded.]

I should be very glad to accommodate the Senator, but I should have to read the whole of *his* report, and I am too much indisposed and exhausted for that. But I will read one or two paragraphs:

“It belongs to the nature of things that the old and new states should take different views, have different feelings, and favor a different course of policy in reference to the lands within their limits. It is natural for the one to regard them chiefly as a source of revenue, and to estimate them according to the amount of income annually derived from them; while the other as naturally regards them, almost exclusively, as a portion of their domain, and as the foundation of their population, wealth, power and importance. They have more emphatically the feelings of ownership, accompanied by the impression that they ought to have the principal control, and the greater share of benefits derived from them.” “To sum up the whole in a few words:—“Of all subjects of legislation, land is that which more emphatically requires a local superintendence and administration; and, therefore, ought pre-eminently to belong, under our system, to state legislation, to which this bill proposes to subject it exclusively in the new states, as it has always been in the old.”

It must be acknowledged that the new states will find some good reading in this report. What is the reasoning? That it is natural for the old states to regard the public lands as a source of revenue, and as natural for the new states to take a different view of the matter; ergo, let us give the lands to the new states, making them, of course, cease any longer to be a source of revenue. It is discovered, too, that land is a subject which emphatically requires a local superintendence and administration. It therefore proposes to subject it exclusively to the new states, as (according to the assertion of the report) it always has been in the old. The public lands of the United States, theoretically, have been subject to the joint authority of the two classes of

states, in Congress assembled, but, practically, have been more under the control of the members from the new states than those from the old. I do not think that the history of the administration of public domain in this country sustains the assertion that the states have exhibited more competency and wisdom for the management of it than the general government.

I stated that I would come down (I should have said go up) from the late President of the United States to the Senator from New-York. Let us see what sort of notions he had on this matter of revenue from the public lands, when acting in his character of chairman of the committee of finance, during this very session, on another bill. There has been, as you are aware, sir, before the Senate, at times, during the last twelve or fifteen years, a proposition for the reduction of the price of the public lands, under the imposing guise of "graduation." A bill, according to custom, has been introduced during the present session for that object. To give it *eclat*, and as a matter of form and dignity, it was referred to the committee of finance, of which the honorable Senator from New-York is the distinguished chairman; the same gentleman who, for these two days, has been defending these lands from waste and spoliation, according to the scheme of distributing their proceeds, in order to preserve them as a fruitful source of revenue for the general government. Here was a fine occasion for the display of the financial abilities of the Senator. He and his friends had exhausted the most ample treasures that any administration ever succeeded to.—They were about retiring from office, leaving the public coffers perfectly empty. Gentlemanly conduct towards their successors, to say nothing of the duties of office or of patriotism, required of them to do all in their power—to pick up and gather together, whenever they could, any means, however scattered or little the bits might be—to supply the urgent wants of the treasury. At all events, if the financial skill of the honorable Senator was incompetent to suggest any plan for augmenting the public revenue, he was, under actual circumstances, bound, by every consideration of honor and of duty, to refrain from espousing or sanctioning any measure that would diminish the national income.

Well; what did the honorable Senator do with the graduation bill?—a bill which, I assert, with a single stroke of the pen, by a short process, consummated in April, 1842, annihilates fifty millions of dollars of the avails of the public lands! What did the Senator do with this bill, which takes off fifty cents from the very moderate price of one dollar and a quarter per acre, at which the public lands are now sold? The bill was in the hands of the able chairman of the committee of finance some time. He examined it, no doubt, carefully, deliberated upon it attentively and anxiously. What report did he make upon it? If uninformed upon the subject, Mr. President, after witnessing, during these two days, the patriotic solicitude of the Senator in

respect to the revenue derivable from the public lands, you would surely conclude that he had made a decisive if not indignant report against the wanton waste of the public lands by the graduation bill. I am sorry to say that he made no such report. Neither did he make an elaborate report to prove that, by taking off fifty cents per acre on one hundred millions of acres, reducing two-fifths of their entire value, the revenue would be increased. Oh no; that was a work he was not prepared to commit even to his logic. He did not attempt to prove that. But what did he do? Why, simply presented a verbal compendious report, recommending that the bill do pass! [A general laugh.] And yet that Senator can rise here—in the light of day—in the face of this Senate—in the face of his country, and in the presence of his God—and argue for retaining and husbanding the public lands, to raise revenue from them!

But let us follow these revenue gentlemen a little further. By one of the strangest phenomena in legislation and logic that was ever witnessed, these very Senators who are so utterly opposed to the distribution of the proceeds of the public lands among all the states, because it is distribution, are themselves for all other sorts of distribution—for cessions, for pre-emptions, for grants to the new states to aid them in education and improvement, and even for distribution of the proceeds of the public lands among particular states. They are for distribution in all conceivable forms and shapes, so long as the lands are to be gotten rid of, to particular persons or particular states. But when an equal, general, broad, and just distribution is proposed, embracing *all* the states, they are electrified and horror-struck. You may distribute—and distribute among states, too—as long as you please, and as much as you please, but not among *all* the States.

And here, sir, allow me to examine more minutely the project of cession, brought forward as the rival of the plan of distribution.

There are upwards of one billion of acres of public land belonging to the United States, situated within and without the limits of the states and territories, stretching from the Atlantic ocean and the gulf of Mexico to the Pacific; they have been ceded by seven of the old thirteen states to the United States, or acquired by treaties with foreign powers. The Senator from South Carolina (Mr. Calhoun) proposes by his bill to cede one hundred and sixty million acres of this land to the nine states wherein they lie, granting to those states 35 per cent., and reserving to the United States 65 per cent. of the proceeds of those lands.

Now what I wish to say, in the first place, is, that, if you commence by applying the principle of cession to the nine land states now in the Union, you must extend it to other new states, as they shall be, hereafter, from time to time, admitted into the Union, until the whole public land is exhausted. You will have to make similar cessions to Wisconsin, to Iowa, to Florida, (in two states,

perhaps, at least in one,) and so to every new state as it shall be organized and received? How could you refuse? When other states to the north and to the west of Missouri, Arkansas, Iowa, and Wisconsin, to the very shores of the Pacific, shall be admitted into the confederacy, will you not be bound by all the principles of equality and justice to make to them respectively similar cessions of the public land, situated within their limits, to those which you will have made to the nine states? Thus your present grant, although extending nominally to but 160,000,000 acres, virtually, and by inevitable consequence, embraces the whole of the public domain. And you bestow a gratuity of 35 per cent. of the proceeds of this vast national property upon a portion of the states, to the exclusion and to the prejudice of the revolutionary states, by whose valor a large part of it was achieved.

Will the Senator state whence he derives the power to do this? Will he pretend that it is to cover the expenses and charges of managing and administering the public lands? On much the greater part, nearly the whole, of the 160 millions of acres, the Indian title has been extinguished, and they have been surveyed. Nothing but a trifling expense is to be incurred on either of those objects; and nothing remains but to sell the land. I understand that the total expense of sale and collection is only about two per cent. Why, what are the charges? There is one per cent. allowed by law to the receivers, and the salaries of the registers and receivers in each land district, with some other inconsiderable incidental charges. Put all together, and they will not amount to three per cent. on the aggregate of sales. Thus the Senator is prepared to part from the title and control of the whole public domain upon these terms! To give thirty-five per cent. to cover an expenditure not exceeding three! Where does he get a power to make this cession to particular states, which would not authorise distribution among all the states? And when he has found the power, will he tell me why, in virtue of it, and in the same spirit of wasteful extravagance or boundless generosity, he may not give to the new states, instead of thirty-five per cent., fifty, eighty, or a hundred? Surrender at once the whole public domain to the new states? The percentage, proposed to be allowed, seems to be founded on no just basis, the result of no official data or calculation, but fixed by mere arbitrary discretion. I should be exceedingly amused to see the Senator from South Carolina rising in his place, and maintaining before the Senate an authority in Congress to cede the public lands to particular states, on the terms proposed, and at the same time denying its power to distribute the proceeds equally and equitably among all the states.

Now, in the second place, although there is a nominal reservation of sixty-five per cent. of the proceeds to the United States, in the sequel, I venture to predict, we should part with the whole. You vest in the nine states the title. They are to sell

the land and grant titles to the purchasers. Now what security have you for the faithful collection and payment into the common treasury of the reserved sixty-five per cent. ? In what medium would the payment be made ? Can there be a doubt that there would be delinquency, collisions, ultimate surrender of the whole debt ? It is proposed, indeed, to retain a sort of mortgage upon the lands, in the possession of purchasers from the state, to secure the payment to the United States of their sixty-five per cent. But how could you enforce such a mortgage ? Could you expel from their homes some, perhaps 100,000 settlers, under state authority, because the state, possibly without any fault of theirs, had neglected to pay over to the United States the sixty-five per cent. ? The remedy of expulsion would be far worse than the relinquishment of the debt, and you would relinquish it.

There is no novelty in this idea of cession to the new states. The form of it is somewhat varied, by the proposal of the senator to divide the proceeds between the new states and the United States, but it is still substantially the same thing—a present cession of thirty-five per cent., and an ultimate cession of the whole ! When the subject of the public lands was before the committee on manufactures, it considered the scheme of cession among the other various projects then afloat. The report made in April, 1832, presents the views entertained by the committee on that topic ; and, although I am not in the habit of quoting from my own productions, I trust the Senate will excuse me on this occasion for availing myself of what was then said, as it will at least enable me to economize my breath and strength. I ask some friend to read the following passages : [which were accordingly read by another senator.]

“Whether the question of a transfer of the public lands be considered in a limited or more extensive view of it which has been stated, it is one of the highest importance, and demanding the most deliberate consideration. From the statements, founded on official reports, made in the preceding part of this report, it has been seen that the quantity of unsold and unappropriated lands lying within the limits of the new states and territories is 340,871,753 acres, and the quantity beyond those limits is 750,000,000, presenting an aggregate of 1,090,871,753 acres. It is difficult to conceive a question of greater magnitude than that of relinquishing this immense amount of national property. Estimating its value according to the minimum price, it presents the enormous sum of \$1,363,589,691. If it be said that a large portion of it will never command that price, it is to be observed on the other hand, that, as fresh lands are brought into market and exposed to sale at public auction, many of them sell at prices exceeding one dollar and a quarter per acre. Supposing the public lands to be worth, on the average, one half of the minimum price, they would still present the immense sum of

**\$681,794,845.** The least favorable view which can be taken of them is, that of considering them a capital yielding, at present, an income of three millions of dollars annually. Assuming the ordinary rate of six per cent. interest per annum as the standard to ascertain the amount of that capital, it would be fifty millions of dollars. But this income has been progressively increasing. The average increase during the six last years has been at the rate of twenty-three per cent. per annum. Supposing it to continue in the same ratio, at the end of a little more than four years the income would be double, and make the capital **\$100,000,000.** Whilst the population of the United States increases only three per cent. per annum, the increase of the demand for the public lands is at the rate of twenty-three per cent. furnishing another evidence that the progress of emigration and the activity of sales have not been checked by the price demanded by government.

“In whatever light, therefore, this great subject is viewed, the transfer of the public lands from the whole people of the United States, for whose benefit they are now held, to the people inhabiting the new states, must be regarded as the most momentous measure ever presented to the consideration of Congress. If such a measure could find any justification, it must arise out of some radical and incurable defect in the construction of the general government properly to administer the public domain. But the existence of any such defect is contradicted by the most successful experience. No branch of the public service has evinced more system, uniformity and wisdom, or given more general satisfaction, than that of the administration of the public lands.

“If the proposed cession to the new states were to be made at a fair price, such as the general government could obtain from individual purchasers under the present system, there would be no motive for it, unless the new states are more competent to dispose of the public lands than the common government. They are now sold under one uniform plan, regulated and controlled by a single legislative authority, and the practical operation is perfectly understood. If they were transferred to the new states, the subsequent disposition would be according to laws emanating from various legislative sources. Competition would probably arise between the new states in the terms which they would offer to purchasers. Each state would be desirous of inviting the greatest number of emigrants, not only for the laudable purpose of populating rapidly its own territories, but with the view to the acquisition of funds to enable it to fulfil its engagements with the general government. Collisions between the states would probably arise, and their injurious consequences may be imagined. A spirit of hazardous speculation would be engendered. Various schemes in the new states would be put afloat to sell or divide the public lands. Companies and combinations would be formed in this country, if not in foreign coun-

tries, presenting gigantic and tempting, but delusive projects; and the history of legislation, in some of the states of the Union, admonishes us that a too ready ear is sometimes given by a majority, in a legislative assembly, to such projects.

"A decisive objection to such a transfer, for a fair equivalent, is, that it would establish a new and dangerous relation between the general government and the new states. In abolishing the credit which had been allowed to purchasers of the public lands prior to the year 1820, Congress was principally governed by the consideration of the expediency and hazard of accumulating a large amount of debt in the new states, all bordering on each other. Such an accumulation was deemed unwise and unsafe. It presented a new bond of interest, of sympathy, and of union, partially operating to the possible prejudice of the common bond of the whole Union. But that debt was a debt due from individuals, and it was attended with this encouraging security, that purchasers, as they successively completed the payments for their lands, would naturally be disposed to aid the government in enforcing payment from delinquents. The project which the committee are now considering is, to sell to the states, in their sovereign character, and, consequently, to render them public debtors to the general government to an immense amount. This would inevitably create between the debtor states a common feeling and a common interest, distinct from the rest of the Union. These states are all in the western and south-western quarter of the Union, remotest from the centre of federal power. The debt would be felt as a load from which they would constantly be desirous to relieve themselves; and it would operate as a strong temptation, weakening, if not dangerous, to the existing confederacy. The committee have the most animating hopes and the greatest confidence in the strength, and power, and durability of our happy Union; and the attachment and warm affection of every member of the confederacy cannot be doubted; but we have authority, higher than human, for the instruction that it is wise to avoid all temptation.

"In the state of Illinois, with a population at the last census of 157,445, there are 31,395,669 acres of public land, including that part on which the Indian title remains to be extinguished. If we suppose it to be worth only half the minimum price, it would amount to \$19,622,480. How would that state be able to pay such an enormous debt? How could it pay even the annual interest upon it?

Supposing the debtor states to fail to comply with their engagements, in what mode could they be enforced by the general government? In treaties between independent nations, the ultimate remedy is well known. The apprehension of an appeal to that remedy, seconding the sense of justice and the regard for character which prevail among Christian and civilized nations, constitutes, generally, adequate security for the performance of national compacts. But this last remedy would be totally inad-



missible in case of a delinquency on the part of the debtor states. The relations between the general government and the members of the confederacy are happily those of peace, friendship and fraternity, and exclude all idea of force and war. Could the judiciary coerce the debtor states? On what could their process operate? Could the property of innocent citizens, residing within the limits of those states, be justly seized by the general government, and held responsible for debts contracted by the states themselves in their sovereign character? If a mortgage upon the lands ceded were retained, that mortgage would prevent or retard subsequent sales by the states; and if individuals bought, subject to the encumbrance, a parental government could never resort to the painful measure of disturbing them in their possessions.

"Delinquency, on the part of the debtor states, would be inevitable, and there would be no effectual remedy for the delinquency. They would come again and again to Congress, soliciting time and indulgence, until, finding the weight of the debt intolerable, Congress, wearied by reiterated applications for relief, would finally resolve to sponge the debt; or, if Congress attempted to enforce its payment, another and a worse alternative would be embraced.

"If the proposed cession be made for a price merely nominal, it would be contrary to the express conditions of the original cessions from primitive states to Congress, and contrary to the obligations which the general government stands under to the whole people of these United States, arising out of the fact that the acquisitions of Louisiana and Florida, and from Georgia, were obtained at a great expense, borne from the common treasure, and incurred for the common benefit. Such a gratuitous cession could not be made without a positive violation of a solemn trust, and without manifest injustice to the old states. And its inequality among the new states would be as marked as its injustice to the old would be indefensible. Thus Missouri, with a population of 140,455, would acquire 38,292,151 acres; and the state of Ohio, with a population of 935,884, would obtain only 5,586,834 acres. Supposing a division of the land among the citizens of those two states respectively; the citizen of Ohio would obtain less than six acres for his share, and the citizen of Missouri upwards of two hundred and seventy-two acres as his proportion.

"Upon full and thorough consideration, the committee have come to the conclusion that it is inexpedient either to reduce the price of the public lands, or to cede them to the new states.— They believe, on the contrary, that sound policy coincides with the duty which has devolved on the general government to the whole of the states, and the whole of the people of the Union, and enjoins the preservation of the existing system, as having been tried and approved, after long and triumphant experience. But, in consequence of the extraordinary financial prosperity

which the United States enjoys, the question merits examination whether, whilst the general government steadily retains the control of this great national resource in its own hands, after the payment of the public debt, the proceeds of the sales of the public lands no longer needed to meet the ordinary expenses of government, may not be beneficially appropriated to some other objects for a limited time."

The Senator from New-York has adverted, for another purpose, to the twenty-eight millions of surplus divided a few years ago among the states. He has said truly that it arose from the public lands. Was not that, in effect, distribution? Was it not so understood at the time? Was it not voted for, by Senators, as practical distribution? The Senator from North Carolina (Mr. Mangum) has stated that he did. I did. Other Senators did; and no one, not the boldest, will have the temerity to rise here and propose to require or compel the states to refund that money. If, in form, it was a deposit with the states, in fact and in truth it was distribution. So it was then regarded. So it will ever remain.

Let us now see, Mr. President, how this plan of cession will operate among the new states themselves. And I appeal more especially to the Senators from Ohio. That state has about a million and a half of inhabitants. The United States have (as will probably be shown when the returns are published of the late census\*) a population of about fifteen millions. Ohio, then, has within her limits one tenth part of the population of the United States. Now, let us see what sort of a bargain the proposed cession makes for Ohio.

[Mr. Allen here interposed, to explain, that the vote he gave for Mr. Calhoun's plan of cession to the new states was on the ground of substituting that in preference to the plan of distribution among all the states.]

Oh! ho!—ah! is that the ground of the Senator's vote?

[Mr. Allen said he had had a choice between two evils—the amendment of the Senator from South Carolina, and the amendment of the Senator from Kentucky; and it was well known on this side of the house that he took the first only as a less evil than the last.]

Well; all I will say is, that that side of the house kept the secret remarkably well. [Loud laughter.] And no one better than the Senator himself. There were seventeen votes given in favor of the plan of the Senator from South Carolina, to my utter astonishment at the time. I had not expected any other vote for it but that of the Senator from South Carolina himself, and the Senator from Michigan, (Mr. Norvell.) No other did, or I suppose would rise and vote to cede away, without any just or

\* The result of the returns has since been announced, and it shows a population of rising seventeen millions. Still Ohio has the proportion supposed, of about one-tenth of the population, according to *federal numbers*, which furnish the rate proposed for distribution.

certain equivalent, more than a billion of acres of public land of the people of the United States. If the vote of the other fifteen Senators was also misunderstood, in the same way as the Senators from Ohio, I shall be very glad of it.

But I was going to show what sort of a bargain for Ohio her two Senators, by their votes, appeared to be assenting to. There are 800,000 acres of public land remaining in Ohio, after being culled for near half a century, thirty-five per cent. of the proceeds of which are to be assigned to that state by the plan of cession. For this trifling consideration she is to surrender her interest in 160,000,000 of acres—in other words, she is to give 16,000,000, (that being her tenth,) for the small interest secured to her in the 800,000 acres. If, as I believe and have contended, the principle of cession, being once established, would be finally extended to the whole public domain, then Ohio would give one hundred millions of acres of land, (that being her tenth part of the whole of the public lands, for the comparatively contemptible consideration that she would acquire in the 800,000 acres. A capital bargain this, to which I supposed the two Senators had assented, by which, in behalf of their state, they exchanged one hundred millions of acres of land against eight hundred thousand! [A laugh.]

I do not think that the Senator's explanation mends the matter much. According to that, he did not vote for cession because he liked cession. No! that is very bad, but, bad as it may be, it is not so great an evil as distribution, and he preferred it to distribution. Let us see what Ohio would get by distribution. Assuming that the public lands will yield only five millions of dollars annually, her proportion, being one-tenth, would be half a million of dollars. But I entertain no doubt that, under proper management, in a few years the public lands will produce a much larger sum, perhaps ten or fifteen millions of dollars: so that the honorable Senator prefers giving away for a song the interest of his state, presently, in 160,000,000 of acres, and eventually in a billion, to receiving annually, in perpetuity, half a million of dollars, with an encouraging prospect of a large augmentation of that sum. That is the notion which the two Senators from Ohio entertain of her interest! Go home, Messieurs Senators from Ohio, and tell your constituents of your votes. Tell them of your preference of a cession of all their interest in the public lands, with the exception of that inconsiderable portion remaining in Ohio, to the reception of Ohio's fair distributive share of the proceeds of all the public lands of the United States, now and hereafter. I do not seek to interfere in the delicate relation between Senators and their constituents; but I think I know something of the feelings and views of my neighbors, the people of Ohio. I have recently read an exposition of her true interests and views in the message of her enlightened Governor, directly contrary to those which appear to be entertained by her two Senators; and I am greatly deceived

if a large majority of the people of that state do not coincide with their Governor.

The unequal operation of the plan of cession among the nine new states has been, perhaps, sufficiently exposed by others. The states with the smallest population get the most land. Thus Arkansas, with only about one-fifteenth part of the population of Ohio, will receive upwards of twenty-eight times as much land as Ohio. The scheme proceeds upon the idea of reversing the maxim of the greatest good to the greatest number, and of substituting the greatest good to the smallest number.

There can be every species of partial distribution of public land or its proceeds but an honest, impartial, straight-forward distribution among all the states. Can the Senator from New-York, with his profound knowledge of the constitution, tell me on what constitutional authority it is that lands are granted to the Indians beyond the Mississippi?

[Mr. Wright said that there was no property acquired, and therefore no constitutional obligation applied.]

And that is the amount of the Senator's information of our Indian relations! Why, sir, we send them across the Mississippi, and put them upon our lands, from which all Indian title had been removed. We promise them even the fee simple; but, if we did not, they are at least to retain the possession and enjoy the use of the lands until they choose to sell them; and the whole amount of our right would be a pre-emption privilege of purchase, to the exclusion of all private persons or public authorities, foreign or domestic. This is the doctrine coeval with the colonization of this continent, proclaimed by the king of Great Britain, in his proclamation of 1763, asserted in the conferences at Ghent, and sustained by the Supreme Court of the United States. Now, such an allotment of public lands to the Indians, whether they acquire the fee or a right of possession indefinite as to time, is equivalent to any distribution.

Thus, sir, we perceive, that all kinds of distribution of the public lands or their proceeds may be made—to particular states, to pre-emptioners, to charities, to objects of education or internal improvement, to foreigners, to Indians, to black, red, white, and gray, to every body, but among all the states of the Union. There is an old adage, according to which charity should begin at home; but, according to the doctrines of the opponents of distribution, it neither begins nor ends at home.

[Here Mr. Clay gave way to an adjournment.]

It is not my intention to inflict upon the Senate even a recapitulation of the heads of argument which I had the honor to address to it yesterday. On one collateral point I desire to supply an omission as to the trade between this country and France. I stated the fact that, according to the returns of imports and exports, there existed an unfavorable balance against the United States, amounting, exclusively of what is re-exported, to seventeen millions of dollars; but I omitted another important fact,

namely, that, by the laws of France, there is imposed on the raw material imported into that kingdom a duty of twenty francs on every hundred kilogrammes, equal to about two cents per pound on American cotton, at the present market price. Now what is the fact as to the comparative rate of duties in the two countries? France imposes on the raw product (which is the mere commencement of value in articles which, when wrought and finally touched, will be worth two or three hundred fold) a duty of near twenty-five per cent., while we admit, free of duty, or with nominal duties, costly luxuries, the product of French industry and taste, wholly unsusceptible of any additional value by any exertion of American skill or industry. In any thing I have said on this occasion, nothing is further from my intention than to utter one word unfriendly to France. On the contrary, it has been always my desire to see our trade with France increased and extended upon terms of reciprocal benefit. With that view, I was in favor of an arrangement in the tariff of 1832, by which silks imported into the United States from beyond the Cape of Good Hope, were charged with a duty of ten per cent. higher than those brought from France and countries this side the cape, especially to encourage the commerce with France.

While speaking of France, allow me to make an observation, although it has no immediate or legitimate connexion with any thing before the Senate. It is to embrace the opportunity of expressing my deep regret at a sentiment attributed by the public journals to a highly distinguished and estimable countryman of ours in another part of the capitol, which implied a doubt as to the validity of the title of Louis Phillippe to the throne of France, inasmuch as it was neither acquired by conquest nor descent, and raising a question as to his being the lawful monarch of the French people. It appears to me that, after the memorable revolution of July, in which our illustrious and lamented friend, Lafayette, bore a part so eminent and effectual, and the subsequent hearty acquiescence of all France in the establishment of the Orleans branch of the house of Bourbon upon the throne, the present king has as good a title to his crown as any of the other sovereigns of Europe have to theirs, and quite as good as any which force or the mere circumstance of birth could confer. And if an individual so humble and at such a distance as I am, might be allowed to express an opinion on the public concerns of another country and another hemisphere, I would add that no Chief Magistrate of any nation, amidst difficulties, public and personal, the most complicated and appalling, could have governed with more ability, wisdom and firmness than have been displayed by Louis Phillippe. All Christendom owes him an acknowledgment for his recent successful efforts to prevent a war which would have been disgraceful to Christian Europe—a war arising from the inordinate pretensions of an upstart Mahometan Pacha, a rebel against his lawful sovereign and a usurper of his rights—a

war which, if once lighted up, must have involved all Europe, and have led to consequences which it is impossible to foresee.

I return to the subject immediately before us.

In tracing the history of that portion of our public domain which was acquired by the war of the revolution, we should always recollect the danger to the peace and harmony among the members of the confederacy with which it was pregnant. It prevented for a long time the ratification of the articles of confederation by all the states, some of them refusing their assent until a just and equitable settlement was made of the question of the crown lands. The argument they urged as to these lands, in a waste and unappropriated state, was, that they had been conquered by the common valor, the common exertions, and the common sacrifices of all the states; that they ought therefore to be the common property of all the states, and that it would be manifestly wrong and unjust that the states within whose limits these crown lands happened to lie should exclusively enjoy the benefit of them. Virginia, within whose boundaries by far the greater part of these crown lands were situated, and by whose separate and unaided exertions on the bloody theatre of Kentucky and beyond the Ohio, under the direction of the renowned George Rogers Clarke, the conquest of most of them was achieved, was, to her immortal honor, among the first to yield to these just and patriotic views, and by her magnificent grant to the Union, powerfully contributed to restore harmony, and quiet all apprehensions among the several states.

Among the objects to be attained by the cession from the states to the confederation of these crown lands, a very important one was to provide a fund to pay the debts of the revolution. The Senator from New York (Mr. Wright) made it the object of a large part of the argument which he addressed to the Senate, to show the contrary; and so far as the mere terms of the deeds of cession are concerned, I admit the argument was sustained. No such purpose appears on the face of the deeds, as far as I have examined them.

[Mr. Wright here interposed, and said that he had not undertaken to argue that the cessions made by the states to the Union were not for the purpose of extinguishing the public debt, but that they were not exclusively for that purpose.]

It is not material whether they were made for the sole purpose of extinguishing the revolutionary debt or not. I think I shall be able to show, in the progress of my argument, that, from the moment of the adoption of the federal constitution, the proceeds of the public lands ought to have been divided among the states.

But that the payment of the revolutionary debt was one of the objects of the cession, is a matter of incontestable history. We should have an imperfect idea of the intentions of the parties if we confined our attention to the mere language of the deeds. In order to ascertain their views, we must examine contemporane-

ous acts, resolutions and proceedings. One of these resolutions, clearly manifesting the purpose I have stated, has probably escaped the notice of the Senator from New-York. It was a resolution of the old Congress, adopted in April, 1783, preceding the final cession from Virginia, which was in March, 1784. There had been an attempt to make the cession as early as 1781, but, owing to the conditions with which it was embarrassed, and other difficulties, the cession was not consummated until March, 1784. The resolution I refer to bears a date prior to that of the cession, and must be taken with it, as indicative of the motives which probably operated on Virginia to make, and the confederation to accept, that memorable grant. I will read it:

*Resolved,* That as a further mean, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States, it be recommended to the states which have passed no acts towards complying with the resolutions of Congress of the 6th of September and 10th of October, 1780, relative to the cession of territorial claims, to make the liberal cessions therein recommended, and to the states which may have passed acts complying with the said resolutions in part only, to revise and complete such compliance.

That was one of the great objects of the cession. Seven of the old thirteen states had waste crown lands within their limits; the other six had none. These complained that what ought to be regarded as property common to them all would accrue exclusively to the seven states, by the operation of the articles of confederation; and, therefore, for the double purpose of extinguishing the revolutionary debt, and of establishing harmony among the states of the Union, the cession of those lands to the United States was recommended by Congress.

And here let us pause for a moment, and contemplate the proposition of the Senator from South Carolina and its possible consequences. We have seen that the possession by seven states of these public lands, won by the valor of the whole thirteen, was cause of so much dissatisfaction to the other six as to have occasioned a serious impediment to the formation of the confederacy; and we have seen that, to remove all jealousy and disquietude on that account, in conformity with the recommendation of Congress, the seven states, Virginia taking the lead, animated by a noble spirit of justice and patriotism, ceded the waste lands to the United States for the benefit of all the states. Now what is the measure of the Senator from South Carolina? It is in effect to restore the discordant and menacing state of things which existed in 1783, prior to any cession from the states. It is worse than that. For it proposes that seventeen states shall give up immediately or eventually all their interest in the public lands, lying in nine states, to those nine states. Now if the seven states had refused to cede at all, they could at least have asserted that they fought Great Britain for these lands as hard as the six.—They would have had, therefore, the apparent right of conquest,



although it was a common conquest. But the Senator's proposition is to cede these public lands from the states which fought for them in the revolutionary war, to states that neither fought for them nor had existence during that war. If the apprehension of an appropriation of these lands to the exclusive advantage of the seven states was nigh preventing the establishment of the Union, can it be supposed that its security and harmony will be unaffected by a transfer of them from seventeen to nine states? But the Senator's proposition goes yet further. It has been shown that it will establish a precedent, which must lead to a cession from the United States of all the public domain, whether won by the sword or acquired by treaties with foreign powers, to new states, as they shall be admitted into the Union.

In the second volume of the laws of the United States will be found the act, known as the funding act, which passed in the year 1790. By the last section of that act the public lands are pledged, and pledged exclusively, to the payment of the revolutionary debt until it should be satisfied. Thus we find, prior to the cession, an invitation from Congress to the states to cede the waste lands, among other objects, for the purpose of paying the public debt; and, after the cessions were made, one of the earliest acts of Congress pledged them to that object. So the matter stood whilst that debt hung over us. During all that time there was a general acquiescence in the dedication of the public lands to that just object. No one thought of disturbing the arrangement. But when the debt was discharged, or rather when, from the rapidity of the process of its extinction, it was evident that it would soon be discharged, attention was directed to a proper disposition of the public lands. No one doubted the power of Congress to dispose of them according to its sound discretion.—Such was the view of President Jackson, distinctly communicated to Congress, in the message which I have already cited.

“As the lands may now be considered as relieved from this pledge, the object for which they were ceded having been accomplished, it is in the discretion of Congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people.”

Can the power of Congress to dispose of the public domain be more broadly asserted? What was then said about revenue? That it should cease to be a source of revenue! We never hear of the revenue argument but when the proposition is up to make an equal and just distribution of the proceeds. When the favorable, but, as I regard them, wild and squandering projects of gentlemen are under consideration, they are profoundly silent as to that argument.

I come now to an examination of the terms on which the cession was made by the states, as contained in the deeds of cession. And I shall take that from Virginia, because it was in some measure the model deed, and because it conveyed by far the most important part of the public lands acquired from the ceding

states. I will first dispose of a preliminary difficulty raised by the senator from New-York. That senator imagined a case, and then combatted it with great force. The case he supposed was, that the senator from Massachusetts and I had maintained that, under that deed, there was a reversion to the states, and much of his argument was directed to prove that there is no reversion, but that if there were, it could only be to the ceding states. Now neither the senator from Massachusetts nor I attempted to erect any such windmill as the senator from New-York has imagined, and he might have spared himself the heavy blows which, like another famed hero, not less valorous than himself, he dealt upon it. What I really maintain and have always maintained is, that according to the terms themselves of the deed of cession, although there is conveyed a common property to be held for the common benefit, there is nevertheless an assignment of a separate use. The ceded land, I admit, is to remain a common fund for all the states, to be administered by a common authority, but the proceeds or profits were to be appropriated to the states in severalty, according to a certain prescribed rule. I contend this is manifestly true from the words of the deed. What are they? "That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

The territory conveyed was to be regarded as an inviolable fund for the use and benefit of such states as were admitted or might be admitted into the Union, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure. It was to be faithfully and bona fide administered for that sole purpose, and for no other purpose whatever.

Where then is the authority for all those wild, extravagant and unjust projects, by which, instead of administration of the ceded territory for all the states and all the people of the Union, it is to be granted to particular states, wasted in schemes of graduation and pre-emption, for the benefit of the trespasser, the alien and the speculator?

The senator from New-York, pressed by the argument as to the application of the fund to the separate use of the states, deducible from the phrases in the deed, "Virginia inclusive," said that they were necessary, because without them Virginia would have been entitled to no part of the ceded lands. No? Were they not ceded to the United States, was she not one of those states, and did not the grant to them include her? Why then

were the words inserted? Can any other purpose be imagined than that of securing to Virginia her separate or "respective" proportion? The whole paragraph, cautiously and carefully composed, clearly demonstrates that, although the fund was to be common, the title common, the administration common, the use and benefit were to be separate among the several states, in the defined proportions.

The grant was for the benefit of the states, "according to their usual respective proportions in the common charge and expenditure." Bear in mind the date of the deed; it was in 1784—before the adoption of the present constitution, and whilst the articles of confederation were in force. What, according to them, was the mode of assessing the quotas of the different states towards the common charge and expenditure? It was made upon the basis of the value of all the surveyed land, and the improvements, in each state. Each state was assessed according to the aggregate value of surveyed land and improvements within its limits. After that was ascertained, the process of assessment was this: suppose there were five millions of dollars required to be raised for the use of the general government, and one million of that five were the proportion of Virginia; there would be an account stated on the books of the general government with the state of Virginia, in which she would be charged with that million. Then there would be an account kept for the proceeds of the sales of the public lands; and, if these amounted to five millions of dollars also, Virginia would be credited with one million, being her fair proportion; and thus the account would be balanced. It is unnecessary to pursue the process with all the other states; this is enough to show that, according to the original contemplation of the grant, the common fund was for the separate benefit of the states; and that, if there had been no change in the form of government, each would have been credited with its share of the proceeds of the public lands in its account with the general government. Is not this indisputable? But let me suppose that Virginia or any other state had said to the general government: "I choose to receive my share of the proceeds of the public lands into my separate treasury; pay it to me, and I will provide in some other mode, more agreeable to me, for the payment of my assessed quota of the expenses of the general government:" can it be doubted that such a demand would have been legitimate and perfectly compatible with the deed of cession? Even under our present system, you will recollect, sir, that, during the last war, any state was allowed to assume the payment of its share of the direct tax, and raise it, according to its own pleasure or convenience, from its own people, instead of the general government collecting it.

From the period of the adoption of the present constitution of the United States, the mode of raising revenue, for the expenses

of the general government, has been changed. Instead of acting upon the states, and through them upon the people of the several states, in the form of assessed quotas or contributions, the general government now acts directly upon the people themselves, in the form of taxes, duties, or excises. Now, as the chief source of revenue raised by this government, is from foreign imports, and as the consumer pays the duty, it is entirely impracticable to ascertain how much of the common charge and general expenditure is contributed by any one state to the Union.

By the deed of cession a great and a sacred trust was created. The general government was the trustee, and the states were the cestuy que trust. According to the trust the measure of benefit accruing to each state from the ceded lands was to be the measure of burden which it bore in the general charge and expenditure. But, by the substitution of a new rule of raising revenue to that which was in contemplation at the time of the execution of the deed of cession, it has become impossible to adjust the exact proportion of burden and benefit with each other. The measure of burden is lost, although the subject remains which was to be apportioned according to that measure. Who can now ascertain whether any one of the states has received, or is receiving, a benefit from the ceded lands proportionate to its burden in the general government? Who can know that we are not daily violating the rule of apportionment prescribed by the deed of cession? To me it appears clear that, either from the epoch of the establishment of the present constitution, or certainly from that of the payment of the revolutionary debt, the proceeds of the public lands being no longer applied by the general government according to that rule, they ought to have been transferred to the states upon some equitable principle of division, conforming as near as possible to the spirit of the cessions. The trustee not being able, by the change of government, to execute the trust agreeably to the terms of the trust, ought to have done, and ought yet to do, that which a chancellor would decree if he had jurisdiction of the case—make a division of the proceeds among the states upon some rule approximating as near as practicable to that of the trust. And what rule can so well fulfil this condition as that which was introduced in the bill which I presented to the Senate, and which is contained in my colleague's amendment? That rule is founded on federal numbers, which are made up of all the inhabitants of the United States other than the slaves, and three-fifths of them. The South, surely, should be the last section to object to a distribution founded on that rule. And yet, if I rightly understood one of the dark allusions of the senator from South Carolina, (Mr. Calhoun,) he has attempted to excite the jealousy of the north on that very ground. Be that as it may, I can conceive of no rule more equitable than that compound one, and, I think, that will be the judgment of all parts of the country, the objection of that senator notwithstanding. Although slaves are, in a

limited proportion, one of the elements that enter into the rule, it will be recollected that they are both consumers and the objects of taxation.

It has been argued that since the fund was to be a common one, and its administration was to be by the general government, the fund ought to be used also by that government to the exclusion of the states separately. But that is a *non sequitur*. It may be a common fund, a common title, and a common or single administration; but is there any thing, in all that, incompatible with a periodical distribution of the profits of the fund among the parties for whose benefit the trust was created? What is the ordinary case of tenants in common? There the estate is common, the title is common, the defence against all attacks is common; but the profits of the estate go to the separate use of, and are enjoyed by, each tenant. Does it therefore cease to be an estate in common?

Again. There is another view. It has been argued, from the fact that the ceded lands in the hands of the trustee were for the common benefit, that that object could be no otherwise accomplished than to use them in the disbursements of the general government; that the general government only must expend them. Now, I do not admit that. In point of fact, the general government would continue to collect and receive the fund, and as a trustee would pay over to each state its distributive share.

The public domain would still remain in common. Then, as to the expenditure, there may be different modes of expenditure. One is, for the general government itself to disperse it, in payments to the civil list, the army, the navy, &c. Another is, by distributing it among the states, to constitute them so many agencies through which the expenditure is effected. If the general government and the state governments were in two different countries; if they had entirely distinct and distant theatres of action, and operated upon different races of men, it would be another case; but here the two systems of government, although for different purposes, are among the same people, and the constituency of both of them is the same. The expenditure, whether made by the one government directly, or through the state governments as agencies, is all for the happiness and prosperity, the honor and the glory, of one and the same people.

The subject is susceptible of other illustrations, of which I will add one or two. Here is a fountain of water held in common by several neighbors, living around it. It is a perennial fountain—deep, pure, copious, and salubrious. Does it cease to be common because some equal division is made by which the members of each adjacent family dip their vessels into it and take out as much as they want? A tract of land is held in common by the inhabitants of a neighboring village. Does it cease to be a common property because each villager uses it for his particular beasts? A river is the common highroad of navigation to conterminous powers or states. Does it cease to be com-

mon because on its bosom are borne vessels bearing the stripes and the stars or the British cross? These, and other examples which might be given, prove that the argument, on which so much reliance has been placed, is not well founded, that, because the public domain is held for the common benefit of the states, there can be no other just application of its proceeds than through the direct expenditures of the general government.

I might have avoided most of this consumption of time by following the bad example of quoting from my own productions; and I ask the Senate to excuse one or two citations from the report I made in 1834, in answer to the veto message of President Jackson, as they present a condensed view of the argument which I have been urging. Speaking of the cession from Virginia the report says:

“This deed created a trust in the United States which they are not at liberty to violate. But the deed does not require that the fund should be disbursed in the payment of the expenses of the general government. It makes no such provision in express terms, nor is such a duty on the part of the trustee fairly deducible from the language of the deed. On the contrary, the language of the deed seems to contemplate a separate use and enjoyment of the fund by the states individually, rather than a preservation of it for common expenditure. The fund itself is to be a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation or federal alliance, Virginia inclusive. The grant is not for the benefit of the confederation, but for that of the several states which compose the confederation. The fund is to be under the management of the confederation collectively, and is so far a common fund; but it is to be managed for the use and benefit of the states individually, and is so far a separate fund under a joint management. Whilst there was a heavy debt existing, created by the war of the Revolution, and by a subsequent war, there was a fitness in applying the proceeds of a common fund to the discharge of a common debt, which reconciled all; but that debt being now discharged, and the general government no longer standing in need of the fund, there is evident propriety in a division of it among those for whose use and benefit it was originally designed, and whose wants require it. And the committee cannot conceive how this appropriation of it, upon principles of equality and justice among the several states, can be regarded as contrary to either the letter or spirit of the deed.

The senator from New-York, assuming that the whole debt of the Revolution has not yet been paid by the proceeds of the public lands, insists that we should continue to retain the avails of them until a reimbursement shall have been effected of all that has been applied to that object. But the public lands were never set apart or relied upon as the exclusive resource for the payment of the revolutionary debt. To give confidence to pub-



lie creditors, and credit to the government, they were pledged to that object, along with other means applicable to its discharge. The debt is paid, and the pledge of the public lands has performed its office. And who paid what the lands did not? Was it not the people of the United States?—those very people to whose use, under the guardianship of their states, it is now proposed to dedicate the proceeds of the public lands? If the money had been paid by a foreign government, the proceeds of the public lands, in honor and good faith, would have been bound to reimburse it. But our revolutionary debt, if not wholly paid by the public lands, was otherwise paid out of the pockets of the people who own the lands; and if money has been drawn from their pockets for a purpose to which these lands were destined, it creates an additional obligation upon Congress to replace the amount so abstracted by distributing the proceeds among the states for the benefit and the reimbursement of the people.

But the senator from New-York has exhibited a most formidable account against the public domain, tending to show, if it be correct, that what has been heretofore regarded, at home and abroad as a source of great national wealth, has been a constant charge upon the treasury, and a great loss to the country. The credit side, according to his statement, was, I believe, one hundred and twenty millions, but the debit side was much larger.

It is scarcely necessary to remark that it is easy to state an account presenting a balance on the one side or the other, as may suit the taste or views of the person making it up. This may be done by making charges that have no foundation, or omitting credits that ought to be allowed, or by both. The most certain operation is the latter, and the senator, who is a pretty thorough-going gentleman, has adopted it.

The first item that I shall notice, with which, I think, he improperly debits the public lands, is a charge of eighty odd millions of dollars for the expense of conducting our Indian relations. Now, if this single item can be satisfactorily expunged, no more need be done to turn a large balance in favor of the public lands. I ask, then, with what color of propriety can the public lands be charged with the entire expense incident to our Indian relations? If the government did not own an acre of public lands, this expense would have been incurred. The aborigines are here; our fathers found them in possession of this land, these woods, and these waters. The preservation of peace with them, the fulfilment of the duties of humanity towards them, their civilization, education, conversion to Christianity, friendly and commercial intercourse—these are the causes of the chief expenditure on their account, and they are quite distinct from the fact of our possessing the public domain. When every acre of that domain has gone from you, the Indian tribes, if not in the mean time extinct, may yet remain, imploring you, for charity's sake, to assist them, and to share with them those blessings, of



which, by the weakness of their nature, or the cruelty of your policy, they have been stripped. Why, especially, should the public lands be chargeable with that large portion of the eighty odd millions of dollars, arising from the removal of the Indians from the east to the west side of the Mississippi? They protested against it. They entreated you to allow them to remain at the homes and by the side of the graves of their ancestors; but your stern and rigorous policy would not allow you to listen to their supplications. The public domain, instead of being justly chargeable with the expense of their removal, is entitled to a large credit for the vast territorial districts beyond the Mississippi which it furnished, for the settlement of the emigrant Indians.

I felt that I have not strength to go through all the items of the senator's account, nor need I. The deduction of this single item will leave a nett balance in favor of the public lands of between sixty and seventy millions of dollars.

What, after all, is the senator's mode of stating the account with the public lands? Has he taken any other than a mere counting house view of them? Has he exhibited any thing more than any sub-accountant or clerk might make out in any of the departments, as probably it was prepared, cut and dry, to the senator's hands? Are there no higher or more statesman-like views to be taken of the public lands, and of the acquisitions of Louisiana and Florida, than the account of dollars and cents which the senator has presented? I have said that the senator by the double process of erroneous insertion and unjust suppression of items, has shaped an account to suit his argument, which presents any thing but a full and fair statement of the case. And is it not so? Louisiana cost fifteen millions of dollars. And, if you had the power of selling, how many hundred millions of dollars would you now ask for the states of Louisiana, Missouri, and Arkansas—people, land, and all? Is the sovereignty which you acquired of the two provinces of Louisiana and Florida nothing? Are the public buildings and works, the fortifications, cannon, and other arms, independent of the public lands, nothing? Is the navigation of the great father of waters, which you secured from the head to the mouth, on both sides of the river, by the purchase of Louisiana, to the total exclusion of all foreign powers, not worthy of being taken into the senator's estimate of the advantages of the acquisition? Who, at all acquainted with the history and geography of this continent, does not know that the Mississippi could not have remained in the hands, and its navigation continued subject to the control, of a foreign power without imminent danger to the stability of the Union? Is the cost of the public domain undeserving of any credit on account of the vast sums which, during the greater part of this century, you have been receiving into the public treasury from the custom-houses of New-Orleans and Mobile? Or on account of the augmentation of the revenue of the gov-

ernment, from the consumption of dutiable articles by the population within the boundaries of the two former provinces? The national benefits and advantages accruing from their possession have been so various and immense that it would be impossible to make any mere pecuniary estimate of them. In any aspect of the subject, the senator's petty items of Indian annuities must appear contemptible in comparison with these splendid national acquisitions.

But the public lands are redeemed. They have long been redeemed. President Jackson announced, more than eight years ago, an incontestible truth when he stated that they might be considered as relieved from the pledge which had been made of them, the object having been accomplished for which they were ceded, and that it was in the discretion of Congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people. That which Congress has the power to do, by an express grant of authority in the constitution, it is, in my humble opinion, imperatively bound to do by the terms of the deed of cession. Distribution, and only distribution, of the proceeds of the public lands, among the states, upon the principles proposed, will conform to the spirit, and execute the trust created in the deeds of cession. Each state, upon grounds of strict justice, as well as equity, has a right to demand its distributive share of those proceeds. It is a debt which this government owes to every state—a debt, payment of which might be enforced by process of law if there were any forum before which the United States could be brought.

And are there not, sir, existing at this moment the most urgent and powerful motives for this dispensation of justice to the states at the hands of the general government? A stranger listening to the argument of the senator from New-York, would conclude that we were not one united people, but that there were two separate and distinct nations—one acted upon by the general government, and the other by the state governments. But is that a fair representation of the case? Are we not one and the same people, acted upon, it is true, by two systems of government, two sets of public agents—the one established for general and the other for local purposes? The constituency is identical and the same, although it is doubly governed. It is the bounden duty of those who are charged with the administration of each system so to administer it as to do as much good and as little harm as possible, within the scope of their respective powers. They should also each take into view the defects in the powers or defects in the administration of the powers of the other, and endeavor to supply them as far as its legitimate authority extends, and the wants or necessities of the people require. For, if distress, adversity and ruin come upon our constituents from any quarter, should they not have our active exertions to relieve them as well as all our sympathies and our deepest regrets? It would be but a poor consolation to the general government, if

such were the fact, that this unhappy state of things was produced by the measures and operation of the state governments, and not by its own. And, if the general government, by a reasonable and legitimate exercise of its authority, could relieve the people, and would not relieve them, the reproaches due to it would be quite as great as if that government itself, and not the state governments, had brought these distresses upon the people.

The powers of taxation possessed by the general government are unlimited. The most fruitful and the least burdensome modes of taxation are confided to this government exclusive of the states. The power of laying duties on foreign imports is entirely monopolized by the federal government. The states have only the power of direct or internal taxation. They have none to impose duties on imports, not even luxuries; we have. And what is their condition at this moment? Some of them are greatly in debt, at a loss even to raise means to pay the interest upon their bonds. These debts were contracted under the joint encouragement of the recommendation of this government and prosperous times, in the prosecution of the laudable object of internal improvements. They may have pushed, in some instances, their schemes too far; but it was in a good cause, and it is easy to make reproaches when things turn out ill.

And here let me say that, looking to the patriotic object of these state debts, and the circumstances under which they were contracted, I saw with astonished and indignant feelings a resolution submitted to the Senate, at the last session, declaring that the general government would not assume the payment of them. A more wicked, malignant, Danton-like proposition was never offered to the consideration of any deliberative assembly. It was a *negative* proposition, not a negative of any affirmative resolution presented to the Senate; for no such affirmative resolution was offered by any one, nor do I believe was ever thought or dreamed of by any one. When, where, by whom, was the extravagant idea ever entertained of an assumption of the state debts by the general government? There was not a solitary voice raised in favor of such a measure in this Senate. Would it not have been time enough to have denounced assumption when it was seriously proposed? Yet, at a moment when the states were greatly embarrassed, when their credit was sinking, at this critical moment, was a measure brought forward, unnecessarily, wantonly and gratuitously, made the subject of an elaborate report, and exciting a protracted debate, the inevitable effect of all which must have been to create abroad distrust in the ability and good faith of the debtor states. Can it be doubted that a serious injury was inflicted upon them by this unprecedented proceeding? Nothing is more delicate than credit or character. Their credit cannot fail to have suffered in the only place where capital could be obtained, and where at that very time some of the agents of the states were negotiating

with foreign bankers. About that period one of the Senators of this body had in person gone abroad for the purpose of obtaining advances of money on Illinois stock.

The Senator from New-York said that the European capitalists had fixed the value of the state bonds of this country at fifty per cent.; and therefore it was a matter of no consequence what might be said about the credit of the states here. But the Senator is mistaken, or I have been entirely misinformed. I understand that some bankers have limited their advances upon the amount of state bonds, prior to their actual sale, to fifty per cent., in like manner as commission merchants will advance on the goods consigned to them, prior to their sale. But in such an operation it is manifestly for the interest of the states, as well as the bankers, that the bonds should command in the market as much as possible above the fifty per cent.; and any proceeding which impairs the value of the bonds must be injurious to both. In any event, the loss would fall upon the states; and that this loss was aggravated by what occurred here, on the resolution to which I have referred, no one, at all acquainted with the sensitiveness of credit and of capitalists, can hesitate to believe. My friends and I made the most strenuous opposition to the resolution, but it was all unavailing, and a majority of the Senate adopted the report of the committee to which the resolution had been referred. We urged the impolicy and injustice of the proceeding; that no man in his senses would ever propose the assumption of the state debts; that no such proposal had, in fact, been made; that the debts of the states were unequal in amount, contracted by states of unequal population, and that some states were not in debt at all. How then was it possible to think of a general assumption of state debts? Who could conceive of such a proposal? But there is a vast difference between our paying *their* debts *for* them, and paying *our own* debts *to* them, in conformity with the trusts arising out of the public domain, which the general government is bound to execute.

Language has been held in this chamber which would lead any one who heard it to believe that some gentlemen would take delight in seeing states dishonored and unable to pay their bonds. If such a feeling does really exist, I trust it will find no sympathy with the people of this country, as it can have none in the breast of any honest man. When the honorable Senator from Massachusetts (Mr. Webster) the other day uttered, in such thrilling language, the sentiment that honor and probity bound the states to the faithful payment of all their debts, and that they would do it, I felt my bosom swelling with patriotic pride—pride, on account of the just and manly sentiment itself; and pride, on account of the beautiful and eloquent language in which that noble sentiment was clothed. Dishonor American credit! Dishonor the American name! Dishonor the whole country! Why, sir, what is national character, national credit, national honor,

national glory, but the aggregate of the character, the credit, the honor, the glory, of the parts of the nation? Can the parts be dishonored, and the whole remain unsullied? Or can the whole be blemished, and the parts stand pure and untainted? Can a younger sister be disgraced, without bringing blushes and shame upon the whole family? Can our young sister Illinois (I mention her only for illustration, but with all feelings and sentiments of fraternal regard,) can she degrade her character as a state, without bringing reproach and obloquy upon all of us? What has made England—our country's glorious parent—(although she has taught us the duty of eternal watchfulness, to repel aggression, and maintain our rights against even her)—what has made England the wonder of the world? What has raised her to such pre-eminence in wealth, power, empire and greatness, at once the awe and the admiration of nations? Undoubtedly, among the prominent causes, have been the preservation of her credit, the maintenance of her honor, and the scrupulous fidelity with which she has fulfilled her pecuniary engagements, foreign as well as domestic. An opposite example of a disregard of national faith and character presents itself in the pages of ancient history. Every schoolboy is familiar with the phrase "Punic faith," which at Rome became a by-word and a reproach against Carthage, in consequence of her notorious violations of her public engagements. The stigma has been transmitted down to the present time, and will remain forever uneffaced. Who would not lament that a similar stigma should be affixed to any member of our confederacy? If there be any one so thoroughly imbued with party spirit, so destitute of honor and morality, so regardless of just feelings of national dignity and character, as to desire to see any of the states of this glorious Union dishonored, by violating their engagements to foreigners, and refusing to pay their just debts, I repel and repudiate him and his sentiments as unworthy of the American name, as sentiments dishonest in themselves, and neither entertained nor approved by the people of the United States.

Let us not be misunderstood, or our feelings and opinions be perverted. What is it that we ask? That this government shall assume the debts of the states? Oh! no, no. The debts of Pennsylvania, for example? (who is, I believe, the most indebted of all the states.) No, no; far from it. But seeing that this government has the power, and, as I think, is under a duty, to distribute the proceeds of the public lands, and that it has the power, which the states have not, to lay duties on foreign luxuries, we propose to make that distribution, pay *our* debt to the states, and save the states, to that extent at least, from the necessity of resorting to direct taxation, the most onerous of all modes of levying money upon the people. We propose to supply the deficiency produced from the withdrawal of the land fund by duties on luxuries, which the wealthy only will pay, and so far save the states from the necessity of burdening the poor.

We propose that, by a just exercise of incontestable powers possessed by this government, we shall go to the succor of all the states, and, by a fair distribution of the proceeds of the public lands among them, avert, as far as that may avert, the ruin and dishonor with which some of them are menaced. We propose, in short, such an administration of the powers of this government as shall protect and relieve our common constituents from the embarrassments to which they may be exposed from the defects in the powers or in the administration of the state governments.

Let us look a little more minutely at consequences. The distributive share of the state of Illinois in the land proceeds would be, according to the present receipts from the public lands, about \$100,000. We make distribution, and she receives it. To that extent it would then relieve her from direct taxation to meet the debt which she has contracted, or it would form the basis of new loans to an amount equal to about two millions. We refuse to make distribution. She must levy the hundred thousand dollars upon her population in the form of direct taxation. And, if I am rightly informed, her chief source of revenue is a land tax, the most burdensome of all taxes. If I am misinformed, the Senators from Illinois can correct me.

[Here Messrs. Robinson and Young explained, stating that there was an additional source in a tax on the stock in the state bank.]

Still the land tax is, as I had understood, the principal source of the revenue of Illinois.

We make distribution, and, if necessary, we supply the deficiency which it produces by an imposition of duties on luxuries, which Illinois cannot tax. We refuse it, and, having no power herself to lay a duty on any foreign imports, she is compelled to resort to the most inconvenient and oppressive of all the modes of taxation. Every vote, therefore, which is given against distribution, is a vote, in effect, given to lay a land tax on the people of Illinois. Worse than that—it is a vote, in effect, refusing to tax the luxuries of the rich, and rendering inevitable the taxation of the poor—that poor in whose behalf we hear, from the other side of the chamber, professions of such deep sympathy, interest and devotion! In what attitude do gentlemen place themselves who oppose this measure—gentlemen who taunt us as the aristocracy, as the friends of the banks, &c.—gentlemen who claim to be the peculiar guardians of the democracy? How do they treat the poor? We have seen, at former sessions, a measure warmly espoused, and finally carried by them, which they represented would reduce the wages of labor. At this session, a tax, which would be borne exclusively by the rich, encounters their opposition. And now we have proposed another mode of benefiting the poor, by distribution of the land proceeds, to prevent their being borne down and oppressed by direct taxation; and this, too, is opposed from the same quarter! These



gentlemen will not consent to lay a tax on the luxuries of the affluent, and, by their votes, insist upon leaving the states under the necessity of imposing direct taxes on the farmer, the laboring man, the poor, and all the while set up to be the exclusive friends of the poor! [A general laugh.] Really, sir, the best friends appear to be the worst enemies of the poor, and their greatest enemies their best friends.

The gentlemen opposed to us have frightened themselves, and have sought to alarm others, by imaginary dangers to spring from this measure of distribution. Corruption, it seems, is to be the order of the day! If I did not misunderstand the Senator from South Carolina, he apprised us of the precise sum—one million of dollars—which was adequate to the corruption of his own state. He knows best about that; but I should be sorry to think that fifty millions of dollars could corrupt my state. What may be the condition of South Carolina at this time I know not; there is so much fog enveloping the dominant party, that it is difficult to discern her present latitude and longitude. What she was in her better days—in the days of her Rutledges, Pinckneys, Sumpters, Lowndeses, Cheveses—we all well know, and I will not inflict pain on the Senator by dwelling on it. It is not for me to vindicate her from a charge so degrading and humiliating. She has another Senator here, far more able and eloquent than I am to defend her. Certainly I do not believe, and should be most unwilling to think, that her Senator had made a correct estimate of her moral power.

It has been indeed said that our whole country is corrupt; that the results of recent elections were brought about by fraudulent means; and that a foreign influence has produced the great political revolution which has just taken place. I pronounce that charge a gross, atrocious, treasonable libel on the people of this country, on the institutions of this country, and on liberty itself. I do not attribute this calumny to any member of this body. I hope there is none who would give it the slightest countenance. But I do charge it upon some of the newspapers in the support of the other party. And it is remarkable that the very press which originates and propagates this foul calumny of foreign influence has indicated the right of unnaturalized foreigners to mingle, at the polls, in our elections; and maintained the expediency of their owning portions of the soil of our country, before they have renounced their allegiance to foreign sovereigns.

I will not consume the time of the Senate in dwelling long upon the idle and ridiculous story about the correspondence between the London bankers and some Missouri bankers—a correspondence which was kept safely until after the Presidential election, in the custody of the directors of what is vaunted as a genuine Locofoco bank in that state, when it was dragged out by a resolution of the Legislature, authorising the sending for persons and



papers. It was then blazed forth as conclusive and damning evidence of the existence of a foreign influence in our Presidential election. And what did it all amount to? These British bankers are really strange fellows. They are foolish enough to look to the safety of their money advanced to foreigners! If they see a man going to ruin, they will not lend him; and if they see a nation pursuing the same road, they are so unreasonable as to decline vesting their funds in its bonds. If they find war threatened, they will speculate on the consequences; and they will indulge in conjectures about the future condition of a country in given contingencies! Very strange! They have seen—all the world is too familiar with—these embarrassments and distresses brought upon the people of the United States by the measures of Mr. Van Buren and his illustrious predecessor. They conclude that, if he be re-elected, there will be no change of those measures, and no better times in the United States. On the contrary, if Gen. Harrison be elected, they argue that a sound currency may be restored, confidence return, and business once more be active and prosperous. They therefore tell their Missouri banking correspondents that American bonds and stocks will continue to depreciate if Mr. Van Buren be re-elected; but that, if his competitor should succeed, they will rise in value and sell more readily in the market. And these opinions and speculations of the English bankers, carefully concealed from the vulgar gaze of the people, and locked up in the vaults of a Locofoco bank, (what wonders they may have wrought there have not been disclosed,) are dragged out and paraded as full proof of the corrupt exercise of a foreign influence in the election of Gen. Harrison as President of the United States. Why, sir, the amount of the whole of it is, that the gentlemen, calling themselves, most erroneously, the Democratic party, have administered the government so badly, that they have lost all credit and confidence at home and abroad, and because the people of the United States have refused to trust them any longer, and foreign bankers will not trust them either, they utter a whining cry that their recent signal defeat has been the work of foreign influence!

[Loud laughter in the galleries.]

Democratic party! They have not the slightest pretension to this denomination. In the school of 1798, in which I was taught, and to which I have ever faithfully adhered, we were instructed to be watchful and jealous of executive power, enjoined to practice economy in the public disbursements, and urged to rally around the people, and not attach ourselves to the Presidential car. This was Jefferson's democracy. But the modern democrats, who have assumed the name, have reversed all these wholesome maxims, and have given to democracy a totally different version. They have run it down, as they have run down, or at least endangered, state rights, the right of instruction—admirable in their proper sphere—and all other rights, by perver-

sion and extravagance. But, thank God, true democracy and true democrats have not been run down. Thousands of those who have been deceived and deluded by false colors, will now eagerly return to their ancient faith, and unite, under Harrison's banner, with their old and genuine friends and principles, as they were held at the epoch of 1798. We shall, I trust, be all once more united as a fraternal band, ready to defend liberty against all dangers that may threaten it at home, and the country against all that shall menace it from abroad.

But to return from this digression to the patriotic apprehension entertained by Senators of corruption, if the proceeds of the public lands should be distributed among the states. If, in the hands of the general government, the land fund does not lead to corruption, why should it in the hands of the state governments?—Is there less danger from the fund if it remain undivided and concentrated, than if it be distributed? Are the state governments more prone to corruption than the federal government? Are they more wasteful and extravagant in the expenditure of the money of the people? I think that if we are to consult purity and economy, we shall find fresh motives for distribution.

Mr. President, two plans of disposing of the vast public domain belonging to the United States have been, from time to time, submitted to the consideration of Congress and the public. According to one of them, it should not be regarded as a source of revenue, either to the general or to the state government. That I have, I think, clearly demonstrated, although the supporters of that plan do press the argument of revenue whenever the rival plan is brought forward. They contend that the general government, being unfit, or less competent than the state governments, to manage the public lands, it ought to hasten to get rid of them, either by reduction of the price, by donation, by pre-emptions, or by cessions to certain states, or by all these methods together.

Now, sir, it is manifest that the public lands cannot be all settled in a century or centuries to come. The progress of their settlement is indicated by the growth of the population of the United States. There have not been, on an average, five millions of acres per annum sold, during the last half century.—Larger quantities will be probably hereafter, although not immediately, annually sold. Now, when we recollect that we have at least a billion of acres to dispose of, some idea may be entertained, judging from the past, of the probable length of time before the whole is sold. Prior to their sale and settlement, the unoccupied portion of the public domain must remain either in the hands of the general government or in the hands of the state governments, or pass into the hands of speculators. In the hands of the general government, if that government shall perform its duty, we know that the public lands will be distributed on liberal, equal, and moderate terms. The worst fate that can befall them would be for them to be acquired by speculators. The emigrant

and settler would always prefer purchasing from government, at fixed and known rates, rather than from the speculator, at unknown rates, fixed by his cupidity or caprice. But if they are transferred from the general government, the best of them will be engrossed by speculators. That is the inevitable tendency of reduction of the price by graduation, and of cession to the states within which they lie.

The rival plan is for the general government to retain the public domain, and make distribution of the proceeds in time of peace among the several states, upon equal and just principles, according to the rule of federal numbers, and, in time of war, to resume the proceeds for its vigorous prosecution. We think that the administration of the public lands had better remain with the common government, to be regulated by uniform principles, than confided to the states, to be administered according to various, and, perhaps, conflicting views. As to that important part of them which was ceded by certain states to the United States for the common benefit of all the states, a trust was thereby created which has been voluntarily accepted by the United States, and which they are not at liberty now to decline or transfer. The history of public lands held in the United States demonstrates that they have been wasted or thrown away by most of the states that owned any, and that the general government has displayed more judgment and wisdom in the administration of them than any of the states. Whilst it is readily admitted that revenue should not be regarded as the sole or exclusive object, the pecuniary advantages which may be derived from this great national property to both the states and the Union ought not to be altogether overlooked.

The measure which I have had the honor to propose settles this great and agitating question forever. It is founded upon no partial and unequal basis, aggrandizing a few of the states to the prejudice of the rest. It stands on a just, broad, and liberal foundation. It is a measure applicable not only to the states now in being, but to the territories, as states shall hereafter be formed out of them, and to all new states as they shall rise tier behind tier, to the Pacific ocean. It is a system operating upon a space almost boundless, and adapted to all future time. It was a noble spirit of harmony and union that prompted the revolutionary states originally to cede to the United States. How admirably does this measure conform to that spirit and tend to the perpetuity of our glorious Union! The imagination can hardly conceive one fraught with more harmony and union among the states. If to the other ties that bind us together as one people be super-added the powerful interest springing out of a just administration of our exhaustless public domain, by which, for a long succession of ages, in seasons of peace, the states will enjoy the benefit of the great and growing revenue which it produces, and in periods of war that revenue will be applied to the prosecution of the war, we shall be forever linked together with the strength

of adamantine chains. No section, no state, would ever be mad enough to break off from the Union, and deprive itself of the inestimable advantages which it secures. Although thirty or forty more new states should be admitted into this Union, this measure would cement them all fast together. The honorable senator from Missouri near me, (Mr. Linn,) is very anxious to have a settlement formed at the mouth of the Oregon, and he will probably be gratified at no very distant day. Then will be seen members of Congress from the Pacific states scaling the Rocky Mountains, passing through the country of the grizzly bear, descending the turbid Missouri, entering the father of rivers, ascending the beautiful Ohio, and coming to this Capitol, to take their seats in its spacious and magnificent halls. Proud of the commission they bear, and happy to find themselves here in council with friends and brothers and countrymen, enjoying the incalculable benefits of this great confederacy, and among them their annual distributive share of the issues of a nation's inheritance, would even they, the remote people of the Pacific, ever desire to separate themselves from such a high and glorious destiny? The fund which is to be dedicated to these great and salutary purposes does not proceed from a few thousand acres of land, soon to be disposed of; but of more than ten hundred millions of acres; and age after age may roll away, state after state arise, generation succeed generation, and still the fund will remain not only unexhausted but improved and increasing, for the benefit of our children's children to the remotest posterity. The measure is not one pregnant with jealousy, discord, or division, but it is a far-reaching, comprehensive, healing measure of compromise and composure, having for its patriotic object the harmony, the stability, and the prosperity of the states and of the Union.

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## ON THE VETO OF THE BANK OF THE UNITED STATES.

*On the Executive Message containing the President's objections  
to the Bank Bill.*

*In Senate of United States, August 19, 1841.*

Mr. Clay, of Kentucky, rose and addressed the Senate as follows: Mr. President, the bill which forms the present subject of our deliberations had passed both Houses of Congress by decisive majorities, and, in conformity with the requirements of the constitution, was presented to the President of the United States for his consideration. He has returned it to the Senate, in which it originated, according to the directions of the constitution, with a message announcing his veto of the bill, and containing his objections to its passage. And the question now to

be decided is,—shall the bill pass, by the required constitutional majority of two-thirds, the President's objections notwithstanding.

Knowing, sir, but too well that no such majority can be obtained, and that the bill must fall, I would have been rejoiced to have found myself at liberty to abstain from saying one word on this painful occasion. But the President has not allowed me to give a silent vote. I think, with all respect and deference to him, he has not reciprocated the friendly spirit of concession and compromise which animated Congress in the provisions of the bill, and especially in the modification of the sixteenth fundamental condition of the bank. He has commented, I think, with undeserved severity on that part of the bill; he has used, I am sure unintentionally, harsh, if not reproachful language; and he has made the very concession, which was prompted as a peace-offering, and from friendly considerations, the cause of stronger and more decided disapprobation of the bill. Standing in the relation to that bill which I do, and especially to the exceptionable clause, the duty which I owe to the Senate and to the country, and self-respect, impose upon me the obligation of at least attempting the vindication of a measure which has met with a fate so unmerited and so unexpected.

On the fourth of April last, the lamented Harrison, the President of the United States, paid the debt of nature. President Tyler, who, as Vice-President, succeeded to the duties of that office, arrived in the city of Washington on the 6th of that month. He found the whole metropolis wrapped in gloom, every heart filled with sorrow and sadness, every eye streaming with tears, and the surrounding hills yet flinging back the echoes of the bells which were tolled on that melancholy occasion. On entering the Presidential mansion he contemplated the pale body of his predecessor stretched before him, and clothed in the black habiliments of death. At that solemn moment I have no doubt that the heart of President Tyler was overflowing with mingled emotions of grief, of patriotism, and of gratitude—above all, of gratitude to that country by a majority of whose suffrages, bestowed at the preceding November, he then stood the most distinguished, the most elevated, the most honored of all living Whigs of the United States.

It was under these circumstances, and in this probable state of mind, that President Tyler, on the 10th day of the same month of April, voluntarily, promulgated an address to the people of the United States. That address was in the nature of a coronation oath, which the Chief of the state, in other countries, and under other forms, takes, upon ascending the throne. It referred to the solemn obligations, and the profound sense of duty, under which the new President entered upon the high trust which had devolved upon him, by the joint acts of the people and of Providence, and it stated the principles and delineated the policy by which he would be governed in his exalted station.

It was emphatically a Whig address, from beginning to end—every inch of it was Whig, and was patriotic.

In that address the President, in respect to the subject-matter embraced in the present bill, held the following conclusive and emphatic language: "I shall *promptly* give my sanction to any constitutional measure which, *originating in Congress*, shall have for its object the restoration of a sound circulating medium, *so essentially necessary* to give confidence in all the transactions of life, to secure *to industry its just and adequate rewards*, and to *re-establish the public prosperity*. In deciding upon the adaptation of any such measure to the end proposed, *as well as its conformity to the constitution*, I shall resort to the *fathers of the great Republican school* for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever *glorious example*."

To this clause in the address of the President, I believe but one interpretation was given throughout this whole country, by friend and foe, by Whig and Democrat, and by the presses of both parties. It was, by every man with whom I conversed on the subject at the time of its appearance, or of whom I have since inquired, construed to mean that the President intended to occupy the Madison ground, and to regard the question of the power to establish a national bank as immovably settled. And I think I may confidently appeal to the Senate, and to the country, to sustain the fact that this was the contemporaneous and unanimous judgment of the public. Reverting back to the period of the promulgation of the address, could any other construction have been given to its language? What is it? "I shall *promptly* give my sanction to any constitutional measure which, *originating in Congress*," shall have defined objects in view. He concedes the vital importance of a sound circulating medium to industry and to the public prosperity. He concedes that its origin must be in Congress. And, to prevent any inference from the qualification, which he prefixes to the measure, being interpreted to mean that a United States Bank was unconstitutional, he declares that, in deciding on the adaptation of the measure to the end proposed, and its *conformity* to the constitution, he will resort to the fathers of the great republican school. And who were they? If the father of his country is to be excluded, are Madison, (the father of the constitution,) Jefferson, Monroe, Gerry, Gallatin, and the long list of republicans who acted with them, not to be regarded as among those fathers? But President Tyler declares that he shall not look to the principles and creed of the republican fathers for advice and instruction, but to the light of their ever glorious EXAMPLE. What example?—What other meaning could have been possibly applied to the phrase, than that he intended to refer to what had been *done* during the administration of Jefferson, Madison and Monroe?

Entertaining this opinion of the address, I came to Washington, at the commencement of the session, with the most confident

and buoyant hopes that the Whigs would be able to carry all their prominent measures, and especially a bank of the United States, by far that one of the greatest immediate importance. I anticipated nothing but cordial co-operation between the two departments of government; and I reflected with pleasure that I should find, at the head of the Executive branch, a personal and political friend, whom I had long and intimately known, and highly esteemed. It will not be my fault if our amicable relations should unhappily cease, in consequence of any difference of opinion between us on this occasion. The President has been always perfectly familiar with my opinion on this bank question.

Upon the opening of the session, but especially on the receipt of the plan of a national bank, as proposed by the Secretary of the Treasury, fears were excited that the President had been misunderstood in his address, and that he had not waived but adhered to his constitutional scruples. Under these circumstances it was hoped that, by the indulgence of a mutual spirit of compromise and concession, a bank, competent to fulfil the expectations and satisfy the wants of the people, might be established.

Under the influence of that spirit, the Senate and the House agreed, first, as to the name of the proposed bank. I confess, sir, that there was something exceedingly *outrée* and revolting to my ears in the term "Fiscal Bank," but I thought, "What is there in a name? A rose, by any other name, would smell as sweet." Looking therefore, rather to the utility of the substantial faculties than to the name of the contemplated institution, we consented to that which was proposed.

2d. As to the place of location of the bank. Although Washington had passed through my mind as among the cities in which it might be expedient to place the bank, it was believed to be the least eligible of some four or five other cities. Nevertheless we consented to fix it here.

And lastly, in respect to the branching power, there was not probably a solitary vote, given in either house of Congress, for the bill, that did not greatly prefer the unqualified branching power, as asserted in the charters of the two former banks of the United States, to the sixteenth fundamental condition, as finally incorporated in this bill. It is perfectly manifest, therefore, that it was not in conformity with the opinion and wish of majorities in Congress, but in a friendly spirit of concession towards the President and his particular friends, that the clause assumed that form. So repugnant was it to some of the best friends of a national bank in the other House, that they finally voted against the bill because it contained the compromise of the branching power.

It is true that, in presenting the compromise to the Senate, I stated, as was the fact, that I did not know whether it would be



acceptable to the President or not; that, according to my opinion, each department of the government should act upon its own responsibility, independently of the other; and that I presented the modification of the branching power because it was necessary to ensure the passage of the bill in the Senate, having ascertained that the vote would stand twenty-six against it to twenty-five, if the form of that power which had been reported by the committee were persisted in. But I nevertheless did entertain the most confident hopes and expectations that the bill would receive the sanction of the President; and this motive, although not the immediate one, had great weight in the introduction and adoption of the compromise clause. I knew that our friends who would not vote for the bill as reported were actuated, as they avowed, by considerations of union and harmony, growing out of supposed views of the President, and I presumed that he would not fail to feel and appreciate their sacrifices. But I deeply regret that we were mistaken. Notwithstanding all our concessions, made in a genuine and sincere spirit of conciliation, the sanction of the President could not be obtained, and the bill has been returned by him with his objections.

And I shall now proceed to consider those objections, with as much brevity as possible, but with the most perfect respect, official and personal, towards the Chief Magistrate.

After stating that the power of Congress to establish a national bank, to operate *per se*, has been a controverted question from the origin of the government, the President remarks, "Men most justly and deservedly esteemed for their high intellectual endowments, their virtue and their patriotism, have, in regard to it, entertained different and conflicting opinions. Congresses have differed. The approval of one President has been followed by the disapproval of another."

From this statement of the case it may be inferred that the President considers the weight of authority, pro and con, to be equal and balanced. But if he intended to make such an array of it—if he intended to say that it was in equilibrium—I most respectfully, but most decidedly, dissent from him. I think the conjoint testimony of history, tradition, and the knowledge of living witnesses prove the contrary. How stands the question as to the opinions of Congresses? The Congress of 1791, the Congress of 1813–14, the Congress of 1815–16, the Congress of 1831–32, and, finally, the present Congress, have all respectively and unequivocally, affirmed the existence of a power in Congress, to establish a national bank, to operate *per se*. We behold, then, the concurrent opinion of five different Congresses on one side. And what Congress is there on the opposite side? The Congress of 1811? I was a member of the Senate in that year, when it decided, by the casting vote of the Vice-President, against the renewal of the charter of the old bank of the United States. And I now here, in my place, add to the testimony already before the public, by declaring that it is within my cer-

tain knowledge, that that decision of the Senate did not proceed from a disbelief of a majority of the Senate in the power of Congress to establish a national bank, but from combined considerations of inexpediency and constitutionality. A majority of the Senate, on the contrary, as I know, entertained no doubt as to the power of Congress. Thus the account, as to the Congresses, stands five for, and not one, or at most, not more than one, against the power.

Let us now look into the state of authority derivable from the opinions of Presidents of the United States. President Washington believed in the power of Congress, and approved a bank bill. President Jefferson approved acts to extend branches into other parts of the United States, and to punish counterfeiters of the notes of the bank—acts which were devoid of all justification whatever upon the assumption of the unconstitutionality of the bank. For how could branches be extended or punishment be lawfully inflicted upon the counterfeiters of the paper of a corporation which came into existence without any authority, and in violation of the constitution of the land? James Madison, notwithstanding those early scruples which he had entertained, and which he probably still cherished, sanctioned and signed a bill to charter the late bank of the United States. It is perfectly well known that Mr. Munroe never did entertain any scruples or doubts in regard to the power of Congress. Here, then, are four Presidents of the United States, who have directly or collaterally borne official testimony to the existence of the bank power in Congress. And what President is there that ever bore unequivocally opposite testimony—that disapproved a bank charter in the sense intended by President Tyler? Gen. Jackson, although he did apply the veto power to the bill for re-chartering the late bank of the United States in 1832, it is within the perfect recollection of us all that he not only testified to the utility of a bank of the United States, but declared that, if he had been applied to by Congress, he could have furnished the plan of such a bank.

Thus, Mr. President, we perceive that, in reviewing the action of the legislative and executive departments of the government, there is a vast preponderance of the weight of authority maintaining the existence of the power in Congress. But President Tyler has, I presume unintentionally, wholly omitted to notice the judgment and decisions of the third co-ordinate department of the government upon this controverted question—that department, whose interpretations of the constitution, within its proper jurisdiction and sphere of action, are binding upon all; and which, therefore, may be considered as exercising a controlling power over both the other departments. The Supreme Court of the United States, with its late chief justice, the illustrious Marshall, at its head, unanimously decided that Congress possessed this bank power; and this adjudication was sustained

and re-affirmed whenever afterwards the question arose before the court.

After recounting the occasions, during his public career, on which he had expressed an opinion against the power of Congress to charter a bank of the United States, the President proceeds to say: "Entertaining the opinions alluded to, and having taken this oath, the Senate, and the country will see that I could not give my sanction to a measure of the character described without surrendering all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations; without an observance of which no government can be prosperous, and no people can be happy. It would be to commit a crime which I would not willfully commit to gain any earthly reward, and which would justly subject me to the ridicule and scorn of all virtuous men."

Mr. President, I must think, and hope I may be allowed to say, with profound deference to the chief magistrate, that it appears to me he has viewed with too lively sensibility the personal consequences to himself of his approval of the bill; and that, surrendering himself to a vivid imagination, he has depicted them in much too glowing and exaggerated colors, and that it would have been most happy if he had looked more to the deplorable consequences of a veto upon the hopes, the interests, and the happiness of his country. Does it follow that a magistrate who yields his private judgment to the concurring authority of numerous decisions, repeatedly and deliberately pronounced, after the lapse of long intervals, by all the departments of government, and by all parties, incurs the dreadful penalties described by the President? Can any man be disgraced and dishonored who yields his private opinion to the judgment of the nation? In this case, the country, (I mean a majority,) Congress, and according to common fame, an unanimous cabinet, were all united in favor of the bill. Should any man feel himself humbled and degraded in yielding to the conjoint force of such high authority? Does any man, who at one period of his life shall have expressed a particular opinion, and at a subsequent period shall act upon the opposite opinion, expose himself to the terrible consequences which have been portrayed by the President? How is it with the judge, in the case by no means rare, who bows to the authority of repeated precedents, settling a particular question, whilst in his private judgment the law was otherwise? How is it with that numerous class of public men in this country, and with the two great parties that have divided it, who, at different periods, have maintained and acted on opposite opinions in respect to this very bank question?

How is it with James Madison, the father of the constitution—that great man whose services to his country placed him only second to Washington—whose virtues and purity in private life—whose patriotism, intelligence, and wisdom in public councils

stand unsurpassed? He was a member of the national convention that formed, and of the Virginia convention that adopted the constitution. No man understood it better than he did. He was opposed in 1791 to the establishment of the bank of the United States upon constitutional ground; and in 1816 he approved and signed the charter of the late bank of the United States. It is a part of the secret history connected with the first bank, that James Madison had, at the instance of General Washington, prepared a veto for him in the contingency of his rejection of the bill. Thus stood James Madison when, in 1815, he applied the veto to a bill to charter a bank upon considerations of expediency, but with a clear and express admission of the existence of a constitutional power in Congress to charter one. In 1816, the bill which was then presented to him being free from the objections applicable to that of the previous year, he sanctioned and signed it. Did James Madison surrender "all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations?" Did the pure, the virtuous, the gifted James Madison, by his sanction and signature to the charter of the late bank of the United States, commit a crime which justly subjected him "to the ridicule and scorn of all virtuous men?"

Not only did the President, as it respectfully appears to me, state entirely too strongly the consequences of his approval of the bill, but is he perfectly correct in treating the question, (as he seems to me to have done,) which he was called upon to decide, as presenting the sole alternative of his direct approval or rejection of the bill? Was the preservation of the consistency and the conscience of the President wholly irreconcilable with the restoration of the blessings of a sound currency, regular and moderate exchanges, and the revival of confidence and business which Congress believes will be secured by a national bank!—Was there no alternative but to prolong the sufferings of a bleeding country, or to send us this veto! From the administration of the executive department of the government, during the last twelve years, has sprung most of the public ills which have afflicted the people. Was it necessary that that source of suffering should continue to operate, in order to preserve the conscience of the President unviolated? Was that the only sad and deplorable alternative? I think, Mr. President, there were other alternatives worthy of the serious and patriotic consideration of the President. The bill might have become a law, in virtue of the provision which required its return within ten days. If the President had retained it three days longer, it would have been a law, without his sanction and without his signature. In such a contingency, the President would have remained passive, and would not have been liable to any accusation of having himself violated the constitution. All that could have been justly said would be, that he did not choose to throw himself in the

way as an obstacle to the passage of a measure indispensable to the prosperity of the nation, in the judgment of the party which brought him into power, of the Whig Congress which he first met, and, if public fame speaks true, of the cabinet which the lamented Harrison called around him, and which he voluntarily continued. In an analogous case, Thomas McKean, when governor of Pennsylvania, than whom the United States have produced but few men of equal vigor of mind and firmness of purpose, permitted a bill to become a law, although, in his opinion, it was contrary to the constitution of that state. And, I have heard, and, from the creditable nature of the source, I am inclined to believe, although I will not vouch for the fact, that, towards the close of the charter of the first bank of the United States, during the second term of Mr. Jefferson, some consideration of the question of the renewal of the charter was entertained, and that he expressed a wish that, if the charter were renewed, it might be effected by the operation of the ten days provision, and his consistency thus preserved.

If it were possible to disinter the venerated remains of James Madison, reanimate his perishing form, and place him once more in that chair of state, which he so much adorned, what would have been his course, if this bill had been presented to him, even supposing him never to have announced his acquiescence in the settled judgment of the nation? He would have said, that human controversy in regard to a single question should not be perpetual, and ought to have a termination. This, about the power to establish a bank of the United States, has been long enough continued.

The nation, under all the forms of its public action, has often and deliberately decided it. A bank, and associated financial and currency questions, which had long slept, were revived, and have divided the nation during the last ten years of arduous and bitter struggle; and the party which put down the bank, and which occasioned all the disorders in our currency and finances, has itself been signally put down, by one of those moral and political revolutions which a free and patriotic people can but seldom arouse itself to make. Human infallibility has not been granted by God; and the chances of error are much greater on the side of one man than on that of the majority of a whole people and their successive legislatures during a long period of time. I yield to the irresistible force of authority. I will not put myself in opposition to a measure so imperatively demanded by the public voice and so essential to elevate my depressed and suffering countrymen.

And why should not President Tyler have suffered the bill to become a law without his signature? Without meaning the slightest possible disrespect to him,—nothing is further from my heart than the exhibition of any such feeling towards that distinguished citizen, long my personal friend—it cannot be forgotten that he came into his present office under peculiar circum-

stances. The people did not foresee the contingency which has happened. They voted for him as Vice-President. They did not, therefore, scrutinize his opinions with the care which they probably ought to have done, and would have done, if they could have looked into futurity. If the present state of the fact could have been anticipated—if at Harrisburg, or at the polls, it had been foreseen that General Harrison would die in one short month after the commencement of his administration; that Vice-President Tyler would be elevated to the presidential chair; that a bill, passed by decisive majorities of the first Whig Congress, chartering a national bank, would be presented for his sanction; and that he would veto the bill, do I hazard any thing when I express the conviction that he would not have received a solitary vote in the nominating convention, nor one solitary electoral vote in any state in the Union?

Shall I be told that the honor, the firmness, the independence of the Chief Magistrate might have been drawn in question if he had remained passive, and so permitted the bill to become a law? I answer that the office of Chief Magistrate is a sacred and exalted trust, created and conferred for the benefit of the nation, and not for the private advantage of the person who fills it. Can any man's reputation for firmness, independence, and honor, be of more importance than the welfare of a great people? There is nothing, in my humble judgment, in such a course, incompatible with honor, with firmness, with independence properly understood.

Certainly, I must respectfully think in reference to a measure like this, recommended by such high sanctions—by five Congresses—by the authority of four Presidents—by repeated decisions of the Supreme Court—by the acquiescence and judgment of the people of the United States during long periods of time—by its salutary operation on the interests of the community for a space of forty years, and demanded by the people whose suffrages placed President Tyler in that second office, from whence he was translated to the first, that he might have suppressed the promptings of all personal pride of private opinion, if any arise in his bosom, and yielded to the wishes and wants of his country. Nor do I believe that, in such a course, he would have made the smallest sacrifice, in a just sense, of personal honor, firmness, or independence.

But, sir, there was still a third alternative, to which I allude, not because I mean to intimate that it should be embraced, but because I am reminded of it by a memorable event in the life of President Tyler. It will be recollected that, after the Senate had passed the resolution declaring the removal of the public deposits from the late bank of the United States to have been derogatory from the constitution and laws of the United States, for which resolution President, then Senator Tyler, had voted, the General Assembly of Virginia instructed the Senators from

that state to vote for the expunging of that resolution. Senator Tyler declined voting in conformity with that instruction, and resigned his seat in the Senate of the United States. This he did because he could not conform, and did not think it right to go counter, to the wishes of those who had placed him in the Senate. If, when the people of Virginia were his only constituency, he would not set up his own particular opinion in opposition to theirs, what ought to be the rule of his conduct when the people of twenty-six states—a whole nation—compose his constituency? Is the will of the constituency of one state to be respected, and that of twenty-six to be wholly disregarded? Is obedience due only to the single state of Virginia? The President admits that the bank question deeply agitated and continues to agitate the nation. It is incontestable that it was the great, absorbing, and controlling question, in all our recent divisions and exertions. I am firmly convinced, and it is my deliberate judgment, that an immense majority, not less than two-thirds of the nation, desire such an institution. All doubts in this respect ought to be dispelled by the recent decisions of the two Houses of Congress. I speak of them *as evidence* of the popular opinion. In the House of Representatives, the majority was 131 to 100. If the House had been full, and but for the modification of the 16th fundamental condition, there would have been a probable majority of 47. Is it to be believed that this large majority of the immediate representatives of the people, fresh from amongst them, and to whom the President seemed inclined, in his opening message, to refer this very question, have mistaken the wishes of their constituents?

I pass to the sixteenth fundamental condition, in respect to the branching power, on which I regret to feel myself obliged to say that I think the President has commented with unexampled severity, and with a harshness of language not favorable to the maintenance of that friendly and harmonious intercourse which is so desirable between co-ordinate departments of the government. The President could not have been uninformed that every one of the twenty-six Senators, and every one of the hundred and thirty-one Representatives who voted for the bill, if left to his own separate wishes, would have preferred the branching power to have been conferred unconditionally, as it was in the charters of the two former banks of the United States. In consenting to the restrictions upon the exercise of that power, he must have been perfectly aware that they were actuated by a friendly spirit of compromise and concession. Yet no where in his message does he reciprocate or return this spirit. Speaking of the assent or dissent which the clause requires, he says: "This ~~iron~~ rule is to give way to no circumstances—it is unbending and inflexible. It is the language of the master to the vassal. An unconditional answer is claimed forthwith." The "high privilege" of a submission of the question, on the part of the State Representatives, to their constituents, according to the



message, is denied. He puts the cases of the popular branch of a State Legislature expressing its dissent "by a unanimous vote, and its resolution may be defeated by a tie vote in the Senate," and "both branches of the Legislature may concur in a resolution of decided assent, and yet the Governor may exert the veto power conferred on him by the state constitution, and their legislative action be defeated." "The state may afterwards *protest* against such unjust inference, but its authority *is gone*." The President continues: "To inferences so violent, and, as they seem to me, *irrational*, I cannot yield my consent. No court of justice would or could sanction them, without reversing all that is established in judicial proceeding, by introducing presumptions *at variance with fact*, and inferences *at the expense of reason*. A state in a condition of duress would be presumed to speak as an individual, manacled and in prison, might be presumed to be in the enjoyment of freedom. Far better to say to the states, boldly and frankly, *Congress wills, and submission is demanded*."

Now, Mr. President, I will not ask whether these animadversions were prompted by a reciprocal spirit of amity and kindness, but I inquire whether all of them are perfectly just.

Beyond all question, those who believed in the constitutional right of Congress to exercise the branching power within the states, unconditionally and without limitation, did make no small concession when they consented that it should be subjected to the restrictions specified in the compromise clause. They did not, it is true, concede every thing; they did not absolutely renounce the power to establish branches without the authority of the states during the whole period of the existence of the charter; but they did agree that reasonable time should be allowed to the several states to determine whether they would or would not give their assent to the establishment of branches within their respective limits. They did not think it right to leave it an open question, for the space of twenty years, nor that a state should be permitted to grant to-day and revoke to-morrow its assent; nor that it should annex onerous or impracticable conditions to its assent, but that it should definitely decide the question, after the lapse of ample time for full deliberation. And what was that time? No state would have had less than four months, and some of them from five to nine months, for consideration. Was it, therefore, entirely correct for the President to say that an "unconditional answer is claimed *forthwith*?" *Forthwith* means immediately, instantly, without delay, which cannot be affirmed of a space of time varying from four to nine months. And the President supposes that the "high privilege" of the members of the State Legislature submitting the question to their constituents is denied! But could they not at any time during that space have consulted their constituents?

The President proceeds to put what I must, with the greatest deference and respect, consider as extreme cases. He supposes

the popular branch to express its dissent by a unanimous vote, which it overruled by a tie in the Senate. He supposes that "both branches of the Legislature may concur in a resolution of decided dissent, and yet the Governor may exert the veto power." The unfortunate case of the state whose legislative will should be so checked by executive authority, would not be worse than that of the Union, the will of whose Legislature, in establishing this bank, is checked and controlled by the President.

But did it not occur to him that extreme cases brought forward on the one side, might be met by extreme cases suggested on the other? Suppose the popular branch were to express its assent to the establishment of a branch bank by a unanimous vote, which is overruled by an equal vote in the Senate. Or suppose that both branches of the Legislature, by majorities in each exactly wanting one vote to make them two-thirds, were to concur in a resolution inviting the introduction of a branch within the limits of the state, and the Governor were to exercise the veto power and defeat the resolution. Would it be very unreasonable in these two cases to infer the assent of the state to the establishment of a branch?

Extreme cases should never be resorted to. Happily for mankind, their affairs are but seldom affected or influenced by them, in consequence of the rarity of their occurrence.

The plain, simple, unvarnished statement of the case is this: Congress believes itself invested with constitutional power to authorize, unconditionally, the establishment of a bank of the United States and branches, any where in the United States, without asking any other consent of the states than that which is already expressed in the constitution. The President does not concur in the existence of that power, and was supposed to entertain an opinion that the previous assent of the states was necessary. Here was an unfortunate conflict of opinion. Here was a case for compromise and mutual concession, if the difference could be reconciled. Congress advanced so far towards the compromise as to allow the states to express their assent or dissent, but then it thought that this should be done within some limited but reasonable time; and it believed, since the bank and its branches were established for the benefit of twenty-six states, if the authorities of any one of them really could not make up their mind within that limited time either to assent or dissent to the introduction of a branch, that it was not unreasonable, after the lapse of the appointed time without any positive action, one way or the other, on the part of the state, to proceed as if it had assented. Now, if the power contended for by Congress really exists, it must be admitted that here was a concession—a concession, according to which an unconditional power is placed under temporary restrictions; a privilege offered to the states which was not extended to them by either of the charters of two former banks of the United States. And I am totally at a loss to com-

prehend how the President reached the conclusion that it would have been "far better to say to the states, boldly and frankly, Congress wills, and submission is demanded." Was it better for the states that the power of branching should be exerted without consulting them at all? Was it nothing to afford them an opportunity of saying whether they desired branches or not? How can it be believed that a clause which qualifies, restricts and limits the branching power, is more derogatory from the dignity, independence and sovereignty of the states, than if it inexorably refused to the states any power whatever to deliberate and decide on the introduction of branches? Limited as the time was, and unconditionally as they were required to express themselves, still those states (and that probably would have been the case with the greater number) that chose to announce their assent or dissent could do so, and get or prevent the introduction of a branch. But the President remarks that "the state may express, after the most solemn form of legislation, its dissent, which may from time to time thereafter be repeated, in full view of its own interest, which can never be separated from the wise and beneficent operation of this government; and yet Congress may, by virtue of the last proviso, overrule its law, and upon grounds which, to such state, will appear to rest on a constructive necessity and propriety, and nothing more."

Even if the dissent of a state should be overruled, in the manner supposed by the President, how is the condition of that state worse than it would have been if the branching power had been absolutely and unconditionally asserted in the charter? There would have been at least the power of dissenting conceded, with a high degree of probability that if the dissent were expressed, no branch would be introduced.

The last proviso to which the President refers is in these words: "And provided, nevertheless, That whenever it shall become necessary and proper for carrying into execution any of the powers granted by the constitution to establish an office or offices in any of the states whatever, and the establishment thereof shall be directed by law, it shall be the duty of the said directors to establish such office or offices accordingly."

This proviso was intended to reserve a power to Congress to compel the bank to establish branches, if the establishment of them should be necessary to the great purposes of this government, notwithstanding the dissent of a state. If, for example, a state had once unconditionally dissented to the establishment of a branch, and afterwards assented, the bank could not have been compelled, without this reservation of power, to establish the branch, however urgent the wants of the treasury might be.

The President, I think, ought to have seen in the form and language of the proviso, the spirit of conciliation in which it was drawn, as I know. It does not assert the power; it employs the language of the constitution itself, leaving every one free to in-

interpret that language according to his own sense of the instrument.

Why was it deemed necessary to speak of its being "the language of the master to the vassal," of "this iron rule," that "Congress wills and submission is demanded?" What is this whole federal government but a mass of powers abstracted from the sovereignty of the several states, and wielded by an organized government for their common defence and general welfare, according to the grants of the constitution? These powers are necessarily supreme; the constitution, the acts of Congress, and treaties being so declared by the express words of the constitution. Whenever, therefore, this government acts within the powers granted to it by the constitution, submission and obedience are due from all; from states as well as from persons. And if this present the image of a master and a vassal, of state subjection and Congressional domination, it is the constitution, created or consented to by the states, that ordains these relations, nor can it be said, in the contingency supposed, that an act of Congress has *repealed* an act of state legislation. Undoubtedly in case of a conflict between a state constitution or state law, and the constitution of the United States or an act of Congress passed in pursuance of it, the state constitution or state law would yield. But it could not at least be formally or technically said that the state constitution or law was repealed. Its operation would be suspended or abrogated by the necessary predominance of the paramount authority.

The President seems to have regarded as objectionable that provision in the clause which declares that a branch, being once established, it should not afterwards be withdrawn or removed without the previous consent of Congress. That provision was intended to operate both upon the bank and the states. And, considering the changes and fluctuations in public sentiment in some of the states within the last few years, was the security against them to be found in that provision, unreasonable? One legislature might invite a branch, which the next might attempt, by penal or other legislation, to drive away. We have had such examples heretofore; and I cannot think that it was unwise to profit by experience. Besides, an exactly similar provision was contained in the scheme of a bank which was reported by the Secretary of the Treasury, and to which it was understood the President had given his assent. But if I understand this message, that scheme could not have obtained his sanction, if Congress had passed it without any alteration whatever. It authorised, what is termed by the President, local discounts, and he does not believe the constitution confers on Congress power to establish a bank having that faculty. He says, indeed, "I regard the bill as asserting for Congress the right to incorporate a United States Bank, with power and right to establish offices of discount and deposite in the several states of this Union, *with or without their consent; a principle to which I have always heretofore been*

*opposed, and which can never obtain my sanction."* I pass with pleasure from this painful theme; deeply regretting that I have been constrained so long to dwell on it.

On a former occasion I stated that, in the event of an unfortunate difference of opinion between the legislative and executive departments, the point of difference might be developed, and it would be then seen whether they could be brought to coincide in any measure corresponding with the public hopes and expectations. I regret that the President has not, in this message, favored us with a more clear and explicit exhibition of his views. It is sufficiently manifest that he is decidedly opposed to the establishment of a new bank of the United States, formed after the two old models. I think it is fairly to be inferred that the plan of the Secretary of the Treasury could not have received his sanction. He is opposed to the passage of the bill which he has returned; but whether he would give his approbation to any bank, and if any, what sort of a bank, is not absolutely clear. I think it may be collected from the message, with the aid of information derived through other sources, that the President would concur in the establishment of a bank whose operations should be limited to dealing in bills of exchange, to deposits, and to the supply of a circulation, excluding the power of discounting promissory notes. And I understand that some of our friends are now considering the practicability of arranging and passing a bill in conformity with the views of President Tyler. Whilst I regret that I can take no active part in such an experiment, and must reserve to myself the right of determining whether I can or cannot vote for such a bill after I see it in its matured form, I assure my friends that they shall find no obstacle or impediment in me. On the contrary, I say to them, go on; God speed you in any measure which will serve the country, and preserve or restore harmony and concert between the departments of government. An executive veto of a bank of the United States, after the sad experience of late years, is an event which was not anticipated by the political friends of the President; certainly not by me. But it has come upon us with tremendous weight, and amidst the greatest excitement within and without the metropolis. The question now is, What shall be done? What, under this most embarrassing and unexpected state of things, will our constituents expect of us? What is required by the duty and the dignity of Congress? I repeat that if, after a careful examination of the executive message, a bank can be devised which will afford any remedy to existing evils, and secure the President's approbation, let the project of such a bank be presented. It shall encounter no opposition, if it should receive no support, from me.

But what further shall we do? Never since I have enjoyed the honor of participating in the public councils of the nation—a period now of near thirty-five years—have I met Congress under more happy or more favorable auspices. Never have I

seen a House of Representatives animated by more patriotic dispositions—more united, more determined, more business-like.—Not even that house which declared war in 1812; nor that which in 1815–16, laid broad and deep foundations of national prosperity, in adequate provisions for a sound currency, by the establishment of a bank of the United States, for the payment of the national debt, and for the protection of American industry. This house has solved the problem of the competency of a large deliberative body to transact the public business. If happily there had existed a concurrence of opinion and cordial co-operation between the different departments of the government, and all the members of the party, we should have carried every measure contemplated at the extra session, which the people had a right to expect from our pledges, and should have been, by this time, at our respective homes. We are disappointed in one, and an important one, of that series of measures; but shall we therefore despair? Shall we abandon ourselves to unworthy feelings and sentiments? Shall we allow ourselves to be transported by rash and intemperate passions and counsels? Shall we adjourn and go home in disgust? No! No! No! A higher, nobler, and more patriotic career lies before us. Let us here, at the east end of Pennsylvania avenue, do our duty, our whole duty, and nothing short of our duty, towards our common country. We have repealed the Sub-Treasury. We have passed a bankrupt law, a beneficent measure of substantial and extensive relief. Let us now pass the bill for the distribution of the proceeds of the public lands; the revenue bill, and the bill for the benefit of the oppressed people of the district. Let us do all—let us do everything we can for the public good. If we are finally to be disappointed in our hopes of giving to the country a bank which will once more supply it with a sound currency, still let us go home and tell our constituents that we did all that we could under actual circumstances; and that, if we did not carry every measure for their relief, it was only because to do so was impossible. If nothing can be done at this extra session to put upon a more stable and satisfactory basis the currency and exchanges of the country, let us hope that hereafter some way will be found to accomplish that most desirable object, either by an amendment of the constitution, limiting and qualifying the enormous executive power, and especially the veto, or by increased majorities in the two houses of Congress, competent to the passage of wise and salutary laws, the President's objections notwithstanding.

This seems to me to be the course now incumbent upon us to pursue; and, by conforming to it, whatever may be the result of laudable endeavors now in progress or in contemplation, in relation to a new attempt to establish a bank, we shall go home, bearing no self-reproaches for neglected or abandoned duties.

## ON THE BANK VETO,

*In reply to the speech of Mr. Rives, of Virginia, on the Executive Message containing the President's objections to the Bank Bill.*

*In Senate of United States, August 19, 1841.*

Mr. Rives having concluded his remarks—

Mr. Clay rose in rejoinder. I have no desire, said he, to prolong this unpleasant discussion, but I must say that I heard with great surprise and regret the closing remark, especially, of the honorable gentleman from Virginia, as, indeed, I did many of those which preceded it. That gentleman stands in a peculiar situation. I found him several years ago in the half-way house, where he seems afraid to remain, and from which he is yet unwilling to go. I had thought, after the thorough riddling which the roof of the house had received in the breaking up of the pet bank system, he would have fled some where else for refuge; but there he still stands, solitary and alone, shivering and pelted by the pitiless storm. The Sub-Treasury is repealed—the pet bank system is abandoned—the United States Bank Bill is vetoed—and now, when there is as complete and perfect a re-union of the purse and the sword in the hands of the Executive as ever there was under Gen. Jackson or Mr. Van Buren, the senator is for doing nothing! The senator is for going home, leaving the treasury and the country in their lawless condition! Yet no man has heretofore, more than he has, deplored and deprecated a state of things so utterly unsafe, and repugnant to all just precautions, indicated alike by sound theory and experience in free governments. And the senator talks to us about applying to the wisdom of practical men, in respect to banking, and advises further deliberation! Why, I should suppose that we are at present in the very best situation to act upon the subject. Besides the many painful years we have had for deliberation, we have been near three months almost exclusively engrossed with the very subject itself. We have heard all manner of facts, statements, and arguments in any way connected with it. We understand, it seems to me, all we ever can learn or comprehend about a national bank. And we have, at least, some conception too of what sort of one will be acceptable at the other end of the avenue. Yet now, with a vast majority of the people of the entire country crying out to us for a bank—with the people throughout the whole valley of the Mississippi rising in their majesty, and demanding it as indispensable to their well-being, and pointing to their losses, their sacrifices, and their sufferings, for the want



of such an institution—in such a state of things, we are gravely and coldly told by the honorable senator from Virginia, that we had best go home, leaving the purse and the sword in the uncontrolled possession of the President, and, above all things, never to make a party bank! Why sir, does he, with all his knowledge of the conflicting opinions which prevail here, and have prevailed, believe that we ever can make a bank but by the votes of one party who are in favor of it, in opposition to the votes of another party against it? I deprecate this expression of opinion from that gentleman the more, because, although the honorable senator professes not to know the opinions of the President, it certainly does turn out in the sequel that there is a most remarkable coincidence between those opinions and his own; and he has, on the present occasion, defended the motives and the course of the President with all the solicitude and all the fervent zeal of a member of his *Privy Council*. There is a rumor abroad that a cabal exists—a new sort of kitchen cabinet—whose object is the dissolution of the regular cabinet—the dissolution of the Whig party—the dispersion of Congress, without accomplishing any of the great purposes of the extra session—and a total change, in fact, in the whole face of our political affairs. I hope, and I persuade myself, that the honorable senator is not, cannot be, one of the component members of such a cabal; but I must say that there has been displayed by the honorable senator to-day a predisposition, astonishing and inexplicable, to misconceive almost all of what I have said, and a perseverance, after repeated corrections, in misunderstanding—for I will not charge him with wilfully and intentionally misrepresenting—the whole spirit and character of the address which, as a man of honor, and as a senator, I felt myself bound in duty to make to this body.

The Senator begins with saying that I charge the President with “perfidy!” Did I use any such language? I appeal to every gentleman who heard me to say whether I have in a single instance gone beyond a fair and legitimate examination of the executive objections to the bill. Yet he has charged me with “arraigning” the President, with indicting him in various counts, and with imputing to him motives such as I never even intimated or dreamed, and that, when I was constantly expressing, over and over, my personal respect and regard for President Tyler, for whom I have cherished an intimate personal friendship of twenty years’ standing, and while I expressly said that if that friendship should now be interrupted, it should not be my fault! Why, sir, what possible, what conceivable motive can I have to quarrel with the President, or to break up the Whig party? What earthly motive can impel me to wish for any other result than that that party shall remain in perfect harmony, undivided, and shall move undismayed, boldly, and unitedly forward to the accomplishment of the all-important public objects which it has avowed to be its aim? What imaginable interest

or feeling can I have other than the success, the triumph, the glory of the Whig party? But that there may be designs and purposes on the part of certain other individuals to place me in inimical relations with the President, and to represent me as personally opposed to him, I can well imagine—individuals who are beating up for recruits, and endeavoring to form a third party with materials so scanty as to be wholly insufficient to compose a decent corporal's guard. I fear there are such individuals, though I do not charge the senator as being himself one of them. What a spectacle has been presented to this nation during this entire session of Congress! That of the cherished and confidential friends of John Tyler, persons who boast and claim to be, *par excellence*, his exclusive and genuine friends, being the bitter, systematic, determined, uncompromising opponents of every leading measure of John Tyler's administration! Was there ever before such an example presented, in this or any other age, in this or any other country? I have myself known the President too long, and cherish toward him too sincere a friendship, to allow my feelings to be affected or alienated by any thing which has passed here to-day. If the President chooses—which I am sure he cannot, unless falsehood has been whispered into his ears or poisoned poured into his heart—to detach himself from me, I shall deeply regret it, for the sake of our common friendship and our common country. I now repeat, what I before said, that, of all the measures of relief which the American people have called upon us for, that of a national bank, and a sound and uniform currency has been the most loudly and importunately demanded. The senator says that the question of a bank was not the issue made before the people at the late election. I can say, for one, my own conviction is diametrically the contrary. What may have been the character of the canvass in Virginia, I will not say; probably gentlemen on both sides were, every where, governed in some degree by considerations of local policy. What issues may therefore have been presented to the people of Virginia, either above or below tide-water, I am not prepared to say. The great error, however, of the honorable senator is in thinking that the sentiments of a particular party in Virginia are always a fair exponent of the sentiments of the whole Union. I can tell that senator that wherever I was—in the great valley of the Mississippi—in Kentucky—in Tennessee—in Maryland—in all the circles in which I moved—every where, "Bank or no Bank" was the great, the leading, the vital question. At Hanover, in Virginia, during the last summer, at one of the most remarkable, and respectable, and gratifying assemblages that I ever attended, I distinctly announced my conviction that a bank of the United States was indispensable. As to the opinions of General Harrison, I know that, like many others, he had entertained doubts as to the constitutionality of a bank; but I also know that, as the election approached, his opinions turned more in favor of a national bank;

and I speak from my own personal knowledge of his opinions, when I say that I have no more doubt he would have signed that bill, than that you, Mr. President, now occupy that chair, or that I am addressing you.

I rose not to say one word which should wound the feelings of President Tyler. The senator says that, if placed in like circumstances, I would have been the last man to avoid putting a direct veto upon the bill, had it met my disapprobation; and he does me the honor to attribute to me high qualities of stern and unbending intrepidity. I hope that in all that relates to personal firmness—all that concerns a just appreciation of the insignificance of human life—whatever may be attempted to threaten or alarm a soul not easily swayed by opposition, or awed or intimidated by menace—a stout heart and a steady eye that can survey, unmoved and undaunted, any mere personal perils that assail this poor transient, perishing frame, I may, without disparagement, compare with other men. But there is a sort of courage which, I frankly confess it, I do not possess—a boldness to which I dare not aspire, a valor which I cannot covet. I cannot lay myself down in the way of the welfare and happiness of my country. That I cannot, I have not the courage to do. I cannot interpose the power with which I may be invested, a power conferred not for my personal benefit, nor for my aggrandizement, but for my country's good, to check her onward march to greatness and glory. I have not courage enough, I am too cowardly for that. I would not, I dare not, in the exercise of such a trust, lie down, and place my body across the path that leads my country to prosperity and happiness. This is a sort of courage widely different from that which a man may display in his private conduct and personal relations. Personal or private courage is totally distinct from that higher and nobler courage which prompts the patriot to offer himself a voluntary sacrifice to his country's good.

Nor did I say, as the senator represents, that the President should have resigned. I intimated no personal wish or desire that he should resign. I referred to the fact of a memorable resignation in his public life. And what I did say was, that there were other alternatives before him besides vetoing the bill; and that it was worthy of his consideration whether consistency did not require that the example which he had set when he had a constituency of one state, should not be followed when he had a constituency commensurate with the whole Union. Another alternative was to suffer the bill, without his signature, to pass into a law under the provisions of the constitution. And I must confess I see, in this, no such escaping by the back door no such jumping out of the window, as the senator talks about. Apprehensions of the imputation of the want of firmness sometimes impel us to perform rash and inconsiderate acts. It is the greatest courage to be able to bear the imputation of the want of courage. But pride, vanity, egotism, so unamiable and offen-

sive in private life, are vices which partake of the character of crimes in the conduct of public affairs. The unfortunate victim of these passions cannot see beyond the little, petty, contemptible, circle of his own personal interests. All his thoughts are withdrawn from his country, and concentrated on his consistency, his firmness, himself. The high, the exalted, the sublime emotions of a patriotism, which, soaring towards Heaven, rises far above all mean, low, or selfish things, and is absorbed by one soul-transporting thought of the good and the glory of one's country, are never felt in his impenetrable bosom. That patriotism which, catching its inspirations from the immortal God, and leaving at an immeasurable distance below all lesser, grovelling, personal interests and feelings, animates and prompts to deeds of self-sacrifice, of valor, of devotion, and of death itself—that is public virtue—that is the noblest, the sublimest of all public virtues!

I said nothing of any obligation on the part of the President to conform his judgment to the opinions of the Senate and House of Representatives, although the senator argued as if I had, and persevered in so arguing, after repeated corrections. I said no such thing. I know and respect the perfect independence of each department, acting within its proper sphere, of other departments. But I referred to the majorities in the two Houses of Congress as further and strong evidence of the opinion of the people of the United States in favor of the establishment of a bank of the United States. And I contended that, according to the doctrine of instructions which prevailed in Virginia, and of which the President is a disciple, and, in pursuance of the example already cited, he ought not to have rejected the bill.

I have heard that, on his arrival at the seat of the general government, to enter upon the duties of the office of Vice-President, in March last, when interrogated how far he meant to conform, in his new station, to certain peculiar opinions which were held in Virginia, he made this patriotic and noble reply: "I am Vice-President of the United States, and not of the state of Virginia; and I shall be governed by the wishes and opinions of my constituents." When I heard of this encouraging and satisfactory reply, believing, as I most religiously do, that a large majority of the people of the United States are in favor of a national bank, (and gentlemen may shut their eyes to the fact, deny or dispute, or reason it away as they please, but it is my conscientious conviction that two-thirds, if not more, of the people of the United States desire such an institution,) I thought I beheld a sure and certain guaranty for the fulfilment of the wishes of the people of the United States. I thought it impossible that the wants and wishes of a great people, who had bestowed such unbounded and generous confidence, and conferred on him such exalted honors, should be disregarded and disappointed. It did not enter into my imagination to conceive that

one, who had shown so much deference and respect to the presumed sentiments of a single state, should display less towards the sentiments of the whole nation.

I hope, Mr. President, that, in performing the painful duty which had devolved on me, I have not transcended the limits of legitimate debate. I repeat, in all truth and sincerity, the assurance to the Senate and to the country, that nothing but a stern, reluctant, and indispensable sense of honor and of duty could have forced from me the response which I have made to the President's objections. But, instead of yielding without restraint to the feelings of disappointment and mortification excited by the perusal of his message, I have anxiously endeavored to temper the notice of it, which I have been compelled to take, by the respect due to the office of Chief Magistrate, and by the personal regard and esteem which I have ever entertained for its present incumbent.

# A P P E N D I X.



## ON THE COLONIZATION OF THE NEGROES.

*Speech before the American Colonization Society, in the hall of the House of Representatives, Jan. 20, 1827.*

Mr. Clay rose. I cannot (said he) withhold the expression of my congratulations to the society on account of the very valuable acquisition which we have obtained in the eloquent gentleman from Boston, (Mr. Knapp,) who has just before favored us with an address. He has told us of his original impressions, unfavorable to the object of the society, and of his subsequent conversion. If the same industry, investigation and unbiassed judgment, which he and another gentleman, (Mr. Powell) who avowed at the last meeting of the society, a similar change wrought in his mind, were carried, by the public at large, into the consideration of the plan of the society, the conviction of its utility would be universal.

I have risen to submit a resolution, in behalf of which I would bespeak the favor of the society. But before I offer any observations in its support, I must say that, whatever part I shall take in the proceedings of this society, whatever opinions or sentiments I may utter, they are exclusively my own. Whether they are worth any thing or not, no one but myself is at all responsible for them. I have consulted with no person out of this society; and I have especially abstained from all communication or consultation with any one to whom I stand in any official relation. My judgment on the object of this society has been long since deliberately formed. The conclusions to which, after much and anxious consideration, my mind has been brought, have been neither produced nor refuted by the official station the duties of which have been confided to me.

From the origin of this society, every member of it has, I believe, looked forward to the arrival of a period, when it would become necessary to invoke the public aid in the execution of the great scheme which it was instituted to promote. Considering itself as the mere pioneer in the cause which it had undertaken, it was well aware that it could do no more than remove preliminary difficulties and point out a sure road to ultimate success; and that the public only could supply that regular, steady, and efficient support, to which the gratuitous means of benevolent individuals would be found incompetent. My surprise has

been that the society has been able so long to sustain itself, and to do so much upon the charitable contributions of good and pious and enlightened men, whom it has happily found in all parts of our country. But our work has so prospered, and grown under our hands, that the appeal to the power and resources of the public should be no longer deferred. The resolution which I have risen to propose contemplates this appeal. It is in the following words:—

*“Resolved,* That the board of managers be empowered and directed, at such time or times as may seem to them expedient, to make respectful application to the Congress of the United States, and to the legislatures of the different states, for such pecuniary aid, in furtherance of the object of this society, as they may respectively be pleased to grant.”

In soliciting the countenance and support of the legislatures of the Union and the states, it is incumbent on the society, in making out its case, to show, first—that it offers to their consideration a scheme which is practicable—and second—that the execution of the practicable scheme, partial or entire, will be fraught with such beneficial consequences as to merit the support which is solicited. I believe both points to be maintainable. First.—It is now a little upwards of ten years since a religious, amiable and benevolent resident\* of this city first conceived the idea of planting a colony, from the United States, of free people of color, on the western shores of Africa. He is no more, and the noblest eulogy which could be pronounced on him would be to inscribe upon his tomb, the merited epitaph—“Here lies the projector of the American Colonization Society.” Amongst others, to whom he communicated the project, was the person who now has the honor of addressing you. My first impressions, like those of all who have not fully investigated the subject, were against it.—They yielded to his earnest persuasions and my own reflections, and I finally agreed with him that the experiment was worthy of a fair trial. A meeting of its friends was called—organized as a deliberative body, and a constitution was formed. The society went into operation. He lived to see the most encouraging progress in its exertions, and died in full confidence of its complete success. The society was scarcely formed before it was exposed to the derision of the unthinking; pronounced to be visionary and chimerical by those who were capable of adopting wiser opinions, and the most confident predictions of its entire failure were put forth. It found itself equally assailed by the two extremes of public sentiment in regard to our African popu-

\* It has been, since the delivery of the speech, suggested that the Rev. Robert Finley, of New Jersey, (who is also unfortunately dead,) contemplated the formation of a society, with a view to the establishment of a colony in Africa, and probably first commenced the project. It is quite likely that he did; and Mr. Clay recollects seeing Mr. Finley, and consulting with him on the subject, about the period of the formation of the society. But the allusion to Mr. Caldwell was founded on the facts well known to Mr. Clay, of his active agency in the organization of the society, and his unremitted subsequent labors, which were not confined to the District of Columbia, in promoting the cause.



lation. According to one, (that rash class which, without a due estimate of the fatal consequence, would forthwith issue a decree of general, immediate, and indiscriminate emancipation,) it was a scheme of the slave holder to perpetuate slavery. The other (that class which believes slavery a blessing, and which trembles with aspen sensibility at the appearance of the most distant and ideal danger to the tenure by which that description of property is held,) declared it a contrivance to let loose on society all the slaves of the country, ignorant, uneducated, and incapable of appreciating the value, or enjoying the privileges of freedom.\* The society saw itself surrounded by every sort of embarrassment. What great human enterprise was ever undertaken without difficulty? What ever failed, within the compass of human power, when pursued with perseverance and blessed by the smiles of Providence? The society prosecuted undismayed its great work, appealing for succor to the moderate, the reasonable, the virtuous, and religious portions of the public. It protested, from the commencement, and throughout all its progress, and it now protests, that it entertains no purpose, on its own authority or by its own means, to attempt emancipation partial or general; that it knows the general government has no constitutional power to achieve such an object; that it believes that the states, and the states only, which tolerate slavery, can accomplish the work of emancipation; and that it ought to be left to them, exclusively, absolutely, and voluntarily, to decide the question.

The object of the society was the colonization of the free colored people, not the slaves, of the country. Voluntary in its institution, voluntary in its continuance, voluntary in all its ramifications, all its means, purposes, and instruments are also voluntary. But it was said that no free colored persons could be prevailed upon to abandon the comforts of civilized life, and expose themselves to all the perils of a settlement in a distant, inhospitable and savage country; that, if they could be induced to go on such a quixotic expedition, no territory could be procured for their establishment as a colony; that the plan was altogether incompetent to effectuate its professed object; and that it ought to be rejected as the idle dream of visionary enthusiasts. The society has outlived, thank God, all these disastrous predictions. It has survived to swell the list of false prophets. It is no longer a question of speculation whether a colony can or cannot be planted from the United States of free persons of color on the shores of Africa. It is a matter demonstrated; such a colony, in fact, exists, prospers, has made successful war, and honorable peace, and transacts all the multiplied business of a civilized and Christian community. It now has about five hundred souls, disciplined troops, forts, and other means of defence, sovereignty

\* A society of a few individuals, without power, without other resources than those which are supplied by spontaneous benevolence, to emancipate all the slaves of the country!

over an extensive territory, and exerts a powerful and salutary influence over the neighboring clans.

Numbers of the free African race among us are willing to go to Africa. The society has never experienced any difficulty on that subject, except that its means of comfortable transportation have been inadequate to accommodate all who have been anxious to migrate. Why should they not go? Here they are in the lowest state of social gradation—aliens—political—moral—social aliens, strangers, though natives. There, they would be in the midst of their friends and their kindred, at home, though born in a foreign land, and elevated above the natives of the country, as much as they are degraded here below the other classes of the community. But on this matter, I am happy to have it in my power to furnish indisputable evidence from the most authentic source, that of large numbers of free persons of color themselves. Numerous meetings have been held in several churches in Baltimore, of the free people of color, in which, after being organised as deliberative assemblies, by the appointment of a chairman (if not of the same complexion) presiding as you, Mr. Vice-President, do, and secretaries, they have voted memorials addressed to the white people, in which they have argued the question with an ability, moderation, and temper, surpassing any that I can command, and emphatically recommended the colony of Liberia to favorable consideration, as the most desirable and practicable scheme ever yet presented on this interesting subject. I ask permission of the society to read this highly creditable document.

[Here Mr. Clay read the memorial referred to.]

The society has experienced no difficulty in the acquisition of a territory, upon reasonable terms, abundantly sufficient for a most extensive colony. And land in ample quantities, it has ascertained, can be procured in Africa, together with all rights of sovereignty, upon conditions as favorable as those on which the United States extinguish the Indian title to territory within their own limits.

In respect to the alledged incompetency of the scheme to accomplish its professed object, the society asks that that object should be taken to be, not what the imaginations of its enemies represent it to be, but what it really proposes. They represent that the purpose of the society is to export the whole African population of the United States, bond and free; and they pronounce this design to be unattainable. They declare that the means of the whole country are insufficient to effect the transportation to Africa of a mass of population approximating to two millions of souls. Agreed; but that is not what the society contemplates. They have substituted their own notion for that of the society. What is the true nature of the evil of the existence of a portion of the African race in our population? It is not that there are *some*, but that there are so *many* among us of a different caste, of a different physical, if not moral, constitu-

tion, who never can amalgamate with the great body of our population. In every country, persons are to be found varying in their color, origin, and character, from the native mass. But this anomaly creates no inquietude or apprehension, because the exotics, from the smallness of their number, are known to be utterly incapable of disturbing the general tranquillity. Here, on the contrary, the African part of our population bears so large a proportion to the residue, of European origin, as to create the most lively apprehension, especially in some quarters of the Union. Any project, therefore, by which, in a material degree, the dangerous element in the general mass can be diminished or rendered stationary, deserves deliberate consideration.

The colonization society has never imagined it to be practicable, or within the reach of any means which the several governments of the Union could bring to bear on the subject, to transport the whole of the African race within the limits of the United States. Nor is that necessary to accomplish the desirable objects of domestic tranquillity, and render us one homogeneous people. The population of the United States has been supposed to duplicate in periods of twenty-five years. That may have been the case heretofore, but the terms of duplication will be more and more protracted as we advance in national age; and I do not believe, that it will be found, in any period to come, that our numbers will be doubled in a less term than one of about thirty-three and a third years. I have not time to enter now into details in support of this opinion. They would consist of those checks which experience has shown to obstruct the progress of population, arising out of its actual augmentation and density, the settlement of waste lands, &c. Assuming the period of thirty-three and a third, or any other number of years, to be that in which our population will hereafter be doubled, if, during that whole term, the capital of the African stock could be kept down, or stationary, whilst that of European origin should be left to an unobstructed increase, the result, at the end of the term, would be most propitious. Let us suppose, for example, that the whole population at present of the United States, is twelve millions, of which ten may be estimated of the Anglo-Saxon, and two of the African race. If there could be annually transported from the United States an amount of the African portion equal to the annual increase of the whole of that caste, whilst the European race should be left to multiply, we should find at the termination of the period of duplication, whatever it may be, that the relative proportions would be as twenty to two. And if the process were continued, during a second term of duplication, the proportion would be as forty to two—one which would eradicate every cause of alarm or solicitude from the breasts of the most timid. But the transportation of Africans, by creating, to the extent to which it might be carried, a vacuum in society, would tend to accelerate the duplication of

the European race, who, by all the laws of population, would fill up the void space.

This society is well aware, I repeat, that they cannot touch the subject of slavery. But it is no objection to their scheme, limited as it is exclusively to those free people of color who are willing to migrate, that it admits of indefinite extension and application, by those, who alone, having the competent authority, may choose to adopt and apply it. Our object has been to point out the way, to show that colonization is practicable, and to leave it to those states or individuals, who may be pleased to engage in the object, to prosecute it. We have demonstrated that a colony may be planted in Africa, by the fact that an American colony there exists. The problem which has so long and so deeply interested the thoughts of good and patriotic men, is solved. A country and a home have been found, to which the African race may be sent, to the promotion of their happiness and our own.

But, Mr. Vice-President, I shall not rest contented with the fact of the establishment of the colony, conclusive as it ought to be deemed, of the practicability of our purpose. I shall proceed to show, by reference to indisputable statistical details and calculations, that it is within the compass of reasonable human means. I am sensible of the tediousness of all arithmetical data, but I will endeavor to simplify them as much as possible. It will be borne in mind that the aim of the society is to establish in Africa a colony of the free African population of the United States; to an extent which shall be beneficial both to Africa and America. The whole free colored population of the United States amounted in 1790, to fifty-nine thousand four hundred and eighty-one; in 1800, to one hundred and ten thousand and seventy-two; in 1810, to one hundred and eighty-six thousand four hundred and forty-six; and in 1820, to two hundred and thirty-three thousand five hundred and thirty. The ratio of annual increase during the first term of ten years, was about eight and a half per cent. per annum; during the second about seven per cent. per annum; and during the third, a little more than two and a half. The very great difference in the rate of annual increase, during those several terms, may probably be accounted for by the effect of the number of voluntary emancipations operating with more influence upon the total smaller amount of free colored persons at the first of those periods, and by the facts of the insurrection in St. Domingo, and the acquisition of Louisiana, both of which, occurring during the first and second terms, added considerably to the number of our free colored population.

Of all descriptions of our population, that of the free colored, taken in the aggregate, is the least prolific, because of the checks arising from vice and want. During the ten years, between 1810 and 1820, when no extraneous causes existed to prevent a fair competition in the increase between the slave and the free African race, the former increased at the rate of nearly three

per cent. per annum, whilst the latter did not much exceed two and a half. Hereafter it may be safely assumed, and I venture to predict will not be contradicted by the return of the next census, that the increase of the free black population will not surpass two and a half per cent. per annum. Their amount at the last census, being two hundred and thirty-three thousand five hundred and thirty, for the sake of round numbers, their annual increase may be assumed to be six thousand at the present time. Now if this number could be annually transported from the United States during a term of years, it is evident that, at the end of that term, the parent capital will not have increased, but will have been kept down, at least to what it was at the commencement of the term. Is it practicable, then, to colonize annually six thousand persons from the United States, without materially impairing or affecting any of the great interests of the United States? This is the question presented to the judgments of the legislative authorities of our country. This is the whole scheme of the society. From its actual experience, derived from the expenses which have been incurred in transporting the persons already sent to Africa, the entire average expense of each colonist, young and old, including passage money and subsistence, may be stated at twenty dollars per head. There is reason to believe that it may be reduced considerably below that sum. Estimating that to be the expense, the total cost of transporting six thousand souls, annually to Africa, would be one hundred and twenty thousand dollars. The tonnage requisite to effect the object, calculating two persons to every five tons (which is the provision of existing law) would be fifteen thousand tons. But, as each vessel could probably make two voyages in the year, it may be reduced to seven thousand five hundred. And as both our mercantile and military marine might be occasionally employed on this collateral service, without injury to the main object of the voyage, a further abatement might be safely made in the aggregate amount of the necessary tonnage. The navigation concerned in the commerce between the colony and the United States, (and it already begins to supply subjects of an interesting trade,) might be incidentally employed to the same end.

Is the annual expenditure of a sum no larger than one hundred and twenty thousand dollars, and the annual employment of seven thousand five hundred tons of shipping, too much for reasonable exertion, considering the magnitude of the object in view? Are they not, on the contrary, within the compass of moderate efforts?

Here is the whole scheme of the society—a project which has been pronounced visionary by those who have never given themselves the trouble to examine it, but to which I believe most unbiassed men will yield their cordial assent, after they have investigated it.

Limited as the project is, by the society, to a colony to be formed by the free and unconstrained consent of free persons of color, it is no objection, but on the contrary, a great recommendation of the plan, that it admits of being taken up and applied on a scale of much more comprehensive utility. The society knows, and it affords just cause of felicitation, that all or any one of the states which tolerate slavery, may carry the scheme of colonization into effect, in regard to the slaves within their respective limits, and thus ultimately rid themselves of an universally acknowledged curse. A reference to the results of the several enumerations of the population of the United States will incontestably prove the practicability of its application on the more extensive scale. The slave population of the United States amounted in 1790, to six hundred and ninety-seven thousand, six hundred and ninety-seven; in 1800, to eight hundred and ninety-six thousand, eight hundred and forty-nine; in 1810, to eleven hundred and ninety-one thousand, three hundred and sixty-four; and in 1820, to fifteen hundred and thirty-eight thousand, one hundred and twenty-eight. The rate of annual increase, (rejecting fractions, and taking the integer to which they make the nearest approach,) during the first term of ten years, was not quite three per centum per annum, during the second, a little more than three per centum per annum, and during the third, a little less than three per centum. The mean ratio of increase for the whole period of thirty years was very little more than three per centum per annum. During the first two periods, the native stock was augmented by importations from Africa, in those states which continued to tolerate them, and by the acquisition of Louisiana. Virginia, to her eternal honor, abolished the abominable traffic among the earliest acts of her self-government. The last term alone presents the natural increase of the capital unaffected by any extraneous causes. That authorizes, as a safe assumption, that the future increase will not exceed three per centum per annum. As our population increases, the value of slave labor will diminish, in consequence of the superior advantages in the employment of free labor. And when the value of slave labor shall be materially lessened, either by the multiplication of the supply of slaves beyond the demand, or by the competition between slave and free labor, the annual increase of slaves will be reduced, in consequence of the abatement of the motives to provide for and rear the offspring.

Assuming the future increase to be at the rate of three per centum per annum, the annual addition to the number of slaves in the United States, calculated upon the return of the last census (one million five hundred and thirty-eight thousand, one hundred and twenty-eight) is forty-six thousand. Applying the data which have been already stated and explained, in relation to the colonization of free persons of color from the United States to Africa, to the aggregate annual increase, both bond and free, of the African race, and the result will be found most encourag-

ing. The total number of the annual increase of both descriptions is fifty-two thousand. The total expense of transporting that number to Africa, supposing no reduction of present prices, would be one million and forty thousand dollars, and the requisite amount of tonnage would be only one hundred and thirty thousand tons of shipping, about one-ninth part of the mercantile marine of the United States. Upon the supposition of a vessel's making two voyages in the year, it would be reduced to one half, sixty-five thousand. And this quantity would be still further reduced, by embracing opportunities of incidental employment of vessels belonging both to the mercantile and military marines.

But, is the annual application of one million and forty thousand dollars, and the employment of sixty-five or even one hundred and thirty thousand tons of shipping, considering the magnitude of the object, beyond the ability of this country? Is there a patriot, looking forward to its domestic quiet, its happiness, and its glory, that would not cheerfully contribute his proportion of the burden to accomplish a purpose so great and so humane? During the general continuance of the African slave trade, hundreds of thousands of slaves have been, in a single year, imported into the several countries whose laws authorized their admission. Notwithstanding the vigilance of the powers now engaged to suppress the slave trade, I have received information, that in a single year, in the single island of Cuba, slaves equal in amount to one half of the above number of fifty-two thousand, have been illicitly introduced. Is it possible that those who are concerned in an infamous traffic can effect more than the states of this Union, if they were seriously to engage in the good work? Is it credible—is it not a libel upon human nature to suppose, that the triumphs of fraud and violence and iniquity, can surpass those of virtue, and benevolence, and humanity?

The population of the United States being, at this time, estimated at about ten millions of the European race, and two of the African, on the supposition of the annual colonization of a number of the latter equal to the annual increase, of both of its classes, during the whole period necessary to the process of duplication of our numbers, they would, at the end of that period, relatively stand twenty millions for the white, and two for the black portion. But an annual exportation of a number equal to the annual increase, at the beginning of the term, and persevered in to the end of it, would accomplish more than to keep the parent stock stationary. The colonists would comprehend more than an equal proportion of those of the prolific ages. Few of those who had passed that age would migrate. So that the annual increase of those left behind, would continue gradually, but, at first, insensibly, to diminish; and by the expiration of the period of duplication, it would be found to have materially abated. But it is not merely the greater relative safety and happiness which would, at the termination of that period, be the con-



dition of the whites. Their ability to give further stimulus to the cause of colonization will have been doubled, whilst the subjects on which it would have to operate, will have decreased or remained stationary. If the business of colonization should be regularly continued during two periods of duplication, at the end of the second, the whites would stand to the blacks, as forty millions to not more than two, whilst the same ability will have been quadrupled. Even if colonization should then altogether cease, the proportion of the African to the European race will be so small that the most timid may then, for ever, dismiss all ideas of danger from within or without, on account of that incongruous and perilous element in our population.

Further; by the annual withdrawal of fifty-two thousand persons of color, there would be annual space created for an equal number of the white race. The period, therefore, of the duplication of the whites, by the laws which govern population, would be accelerated.

Such, Mr. Vice-President, is the project of the society; and such is the extension and use which may be made of the principle of colonization, in application to our slave population, by those states which are alone competent to undertake and execute it. All, or any one, of the states which tolerate slavery may adopt and execute it, by co-operation or separate exertion. If I could be instrumental in eradicating this deepest stain upon the character of our country, and removing all cause of reproach on account of it, by foreign nations—If I could only be instrumental in ridding of this foul blot that revered state that gave me birth, or that not less beloved state which kindly adopted me as her son, I would not exchange the proud satisfaction which I should enjoy for the honor of all the triumphs ever decreed to the most successful conqueror.

Having, I hope, shown that the plan of the society is not visionary, but rational and practicable; that a colony does in fact exist, planted under its auspices; that free people are willing and anxious to go; and that the right of soil as well as of sovereignty may be acquired in vast tracts of country in Africa, abundantly sufficient for all the purposes of the most ample colony, and at prices almost only nominal, the task which remains to me of showing the beneficial consequences which would attend the execution of the scheme, is comparatively easy.

Of the utility of a total separation of the two incongruous portions of our population, supposing it to be practicable, none have ever doubted. The mode of accomplishing that most desirable object, has alone divided public opinion. Colonization in Hayti, for a time, had its partisans. Without throwing any impediments in the way of executing that scheme, the American colonization society has steadily adhered to its own. The Haytian project has passed away. Colonization beyond the Stony Mountains has sometimes been proposed; but it would be attended with an expense and difficulties far surpassing the African

project, whilst it would not unite the same animating motives. There is a moral fitness in the idea of returning to Africa her children, whose ancestors have been torn from her by the ruthless hand of fraud and violence. Transplanted in a foreign land, they will carry back to their native soil the rich fruits of religion, civilization, law, and liberty. May it not be one of the great designs of the Ruler of the universe, (whose ways are often inscrutable by short-sighted mortals,) thus to transform an original crime into a signal blessing, to that most unfortunate portion of the globe. Of all classes of our population, the most vicious is that of the free colored. It is the inevitable result of their moral, political, and civil degradation. Contaminated themselves, they extend their vices to all around them, to the slaves and to the whites. If the principle of colonization should be confined to them; if a colony can be firmly established and successfully continued in Africa which should draw off annually an amount of that portion of our population equal to its annual increase, much good will be done. If the principle be adopted and applied by the states, whose laws sanction the existence of slavery, to an extent equal to the annual increase of slaves, still greater good will be done. This good will be felt by the Africans who go, by the Africans who remain, by the white population of our country, by Africa, and by America. It is a project which recommends itself to favor in all the aspects in which it can be contemplated. It will do good in every and any extent in which it may be executed. It is a circle of philanthropy, every segment of which tells and testifies to the beneficence of the whole.

Every emigrant to Africa is a missionary carrying with him credentials in the holy cause of civilization, religion, and free institutions. Why is it that the degree of success of missionary exertions is so limited, and so discouraging to those whose piety and benevolence prompt them? Is it not because the missionary is generally an alien and a stranger, perhaps of a different color, and from a different tribe? There is a sort of instinctive feeling of jealousy and distrust towards foreigners, which repels and rejects them in all countries; and this feeling is in proportion to the degree of ignorance and barbarism which prevail. But the African colonists, whom we send to convert the heathen, are of the same color, the same family, the same physical constitution. When the purposes of the colony shall be fully understood, they will be received as long lost brethren restored to the embraces of their friends and their kindred by the dispensations of a wise Providence.

The society is reproached for agitating this question. It should be recollected that the existence of free people of color is not limited to the states only which tolerate slavery. The evil extends itself to all the states, and some of those which do not allow of slavery, their cities especially, experience the evil in an extent even greater than it exists in the slave states. A

common evil confers a right to consider and apply a common remedy. Nor is it a valid objection that this remedy is partial in its operation or distant in its efficacy. A patient, writhing under the tortures of excruciating disease, asks of his physician to cure him if he can, and, if he cannot, to mitigate his sufferings. But the remedy proposed, if generally adopted, and perseveringly applied, for a sufficient length of time, should it not entirely eradicate the disease, will enable the body politic to bear it without danger and without suffering.

We are reproached with doing mischief by the agitation of this question. The society goes into no household to disturb its domestic tranquility; it addresses itself to no slaves to weaken their obligations of obedience. It seeks to affect no man's property. It neither has the power nor the will to affect the property of any one contrary to his consent. The execution of its scheme would augment instead of diminishing the value of the property left behind. The society, composed of free men, concerns itself only with the free. Collateral consequences we are not responsible for. It is not this society which has produced the great moral revolution which the age exhibits. What would they, who thus reproach us, have done? If they would repress all tendencies towards liberty and ultimate emancipation, they must do more than put down the benevolent efforts of this society. They must go back to the era of our liberty and independence, and muzzle the cannon which thunders its annual joyous return. They must revive the slave trade, with all its train of atrocities. They must suppress the workings of British philanthropy, seeking to meliorate the condition of the unfortunate West Indian slaves. They must arrest the career of South American deliverance from thralldom. They must blow out the moral lights around us, and extinguish that greatest torch of all which America presents to a benighted world, pointing the way to their rights, their liberties, and their happiness. And when they have achieved all these purposes, their work will be yet incomplete. They must penetrate the human soul, and eradicate the light of reason and the love of liberty. Then, and not till then, when universal darkness and despair prevail, can you perpetuate slavery, and repress all sympathies, and all humane and benevolent efforts among freemen, in behalf of the unhappy portion of our race doomed to bondage.

Our friends, who are curst with this greatest of human evils, deserve the kindest attention and consideration. Their property and their safety are both involved. But the liberal and candid among them will not, cannot, expect that every project to deliver our country from it is to be crushed because of a possible and ideal danger.

Animated by the encouragement of the past, let us proceed under the cheering prospects which lie before us. Let us continue to appeal to the pious, the liberal, and the wise. Let us bear in mind the condition of our forefathers, when, collected on

the beach of England, they embarked, amidst the scoffings and the false predictions of the assembled multitude, for this distant land; and here, in spite of all the perils of forest and ocean, which they encountered, successfully laid the foundations of this glorious republic. Undismayed by the prophecies of the presumptuous, let us supplicate the aid of the American representatives of the people, and redoubling our labors, and invoking the blessings of an all-wise Providence, I boldly and confidently anticipate success. I hope the resolution which I offer will be unanimously adopted.

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## ON THE BANK QUESTION.

*A sketch of what Mr. Clay said on the Bank Question, in an Address to his Constituents, in Lexington, June 3d, 1816.—*  
[Extracted from the Kentucky Gazette.]

On one subject, that of the Bank of the United States, to which, at the late session of Congress, he gave his humble support, Mr. Clay felt particularly anxious to explain the grounds on which he had acted. This explanation, if not due to his own character, the state and district to which he belonged had a right to demand. It would have been unnecessary, if his observations, addressed to the House of Representatives, pending the measure, had been published; but they were not published, and why they were not published, he was unadvised.

When he was a member of the Senate of the United States, he was induced to oppose the renewal of the charter of the old bank of the United States, by three general considerations. The first was, that he was instructed to oppose it by the Legislature of the state. What were the reasons that operated with the Legislature, in giving the instruction, he did not know. He has understood from members of that body; at the time it was given, that a clause, declaring that Congress had no power to grant the charter, was stricken out; from which it might be inferred, either that the Legislature did not believe a bank to be unconstitutional, or that it had formed no opinion on that point. This inference derives additional strength from the fact, that, although the two late Senators from this state, as well as the present Senators, voted for a national bank, the Legislature, which must have been well apprised that such a measure was in contemplation, did not again interpose, either to protest against the measure itself, or to censure the conduct of those Senators. From this silence on the part of a body which has ever fixed a watchful eye upon the proceedings of the general government, he had a right to believe that the Legislature of Kentucky saw, without dissatisfaction, the proposal to establish a national bank; and

that its opposition to the former one was upon grounds of expediency, applicable to that corporation alone, or no longer existing. But when, at the last session, the question came up as to the establishment of a national bank, being a member of the House of Representatives, the point of inquiry with him was not so much what was the opinion of the Legislature, although undoubtedly the opinion of a body so respectable would have great weight with him under any circumstances, as what were the sentiments of his immediate constituents. These he believed to be in favor of such an institution, from the following circumstances: In the first place, his predecessor, (Mr. Hawkins,) voted for a national bank, without the slightest murmur of discontent. Secondly, during the last fall, when he was in his district, he conversed freely with many of his constituents upon that subject, then the most common topic of conversation, and all, without a single exception as far as he recollected, agreed that it was a desirable, if not the only efficient remedy, for the alarming evils in the currency of the country. And lastly, during the session he received many letters from his constituents, prior to the passage of the bill, all of which concurred, he believed without a solitary exception, in advising the measure. So far, then, from being instructed by his district to oppose the bank, he had what was perhaps tantamount to an instruction to support it—the acquiescence of his constituents in the vote of their former representative, and the communications, oral and written, of the opinions of many of them in favor of a bank.

The next consideration which induced him to oppose the renewal of the old charter, was, that he believed the corporation had, during a portion of the period of its existence, abused its powers, and had sought to subserve the views of a political party. Instances of its oppression for that purpose were asserted to have occurred at Philadelphia and at Charleston; and, although denied in Congress by the friends of the institution during the discussions on the application for the renewal of the charter, they were, in his judgment, satisfactorily made out. This oppression, indeed, was admitted in the House of Representatives, in the debate on the present bank, by a distinguished member of that party which had so warmly espoused the renewal of the old charter. It may be said, what security is there that the new bank will not imitate this example of oppression? He answered, the fate of the old bank warning all similar institutions to shun politics, with which they ought not to have any concern; the existence of abundant competition, arising from the great multiplication of banks, and the precautions which are to be found in the details of the present bill.

A third consideration, upon which he acted in 1811, was that, as the power to create a corporation, such as was proposed to be continued, was not specifically granted in the constitution, and did not then appear to him to be necessary to carry into effect any of the powers which were specifically granted, Con-

gress was not authorized to continue the bank. The constitution, he said, contained powers delegated and prohibitory, powers expressed and constructive. It vests in Congress all powers *necessary* to give effect to the enumerated powers—all that may be necessary to put into motion and activity the machine of government which it constructs. The powers that may be so necessary are deducible by construction. They are not defined in the constitution. They are, from their nature, indefinable. When the question is in relation to one of these powers, the point of inquiry should be, is its exertion necessary to carry into effect any of the enumerated powers and objects of the general government? With regard to the *degree* of necessity, various rules have been, at different times, laid down; but, perhaps, at last, there is no other than a sound and honest judgment exercised, under the checks and control which belong to the constitution and to the people.

The constructive powers, being auxiliary to the specifically granted powers, and depending, for their sanction and existence, upon a necessity to give effect to the latter, which necessity is to be sought for and ascertained by a sound and honest discretion, it is manifest that this necessity may not be perceived, at one time, under one state of things, when it is perceived at another time, under a different state of things. The constitution, it is true, never changes; it is always the same; but the force of circumstances and the lights of experience may evolve to the fallible persons, charged with its administration, the fitness and necessity of a particular exercise of a constructive power to-day, which they did not see at a former period.

Mr. Clay proceeded to remark, that when the application was made to renew the old charter of the bank of the United States, such an institution did not appear to him to be so necessary to the fulfillment of any of the objects specifically enumerated in the constitution as to justify Congress in assuming, by construction, power to establish it. It was supported mainly upon the ground that it was indispensable to the treasury operations. But the local institutions, in the several states were at that time in prosperous existence, confided in by the community, having a confidence in each other, and maintaining an intercourse and connexion the most intimate. Many of them were actually employed by the treasury to aid that department, in a part of its fiscal arrangements; and they appeared to him to be fully capable of affording to it all the facility that it ought to desire in all of them. They superceded, in his judgment, the necessity of a national institution. But how stood the case in 1816, when he was called upon again to examine the power of the general government to incorporate a national bank. A total change of circumstances was presented. Events of the utmost magnitude had intervened.

A general suspension of specie payments had taken place, and this had led to a train of consequences of the most alarm-

ing nature. He beheld, dispersed over the immense extent of the United States, about three hundred banking institutions, enjoying, in different degrees, the confidence of the public, shaken as to them all, under no direct control of the general government, and subject to no actual responsibility to the state authorities. These institutions were emitting the actual currency of the United States; a currency consisting of a paper, on which they neither paid interest nor principal, whilst it was exchanged for the paper of the community, on which both were paid. He saw these institutions, in fact, exercising what had been considered, at all times and in all countries, one of the highest attributes of sovereignty, the regulation of the current medium of the country. They were no longer competent to assist the treasury in either of the great operations of collection, deposit or distribution of the public revenues. In fact, the paper which they emitted, and which the treasury, from the force of events, found itself constrained to receive, was constantly obstructing the operations of that department. For it would accumulate where it was not wanted, and could not be used where it was wanted for the purposes of government, without a ruinous and arbitrary brokerage. Every man who paid or received from the government, paid or received as much less than he ought to have done, as was the difference between the medium in which the payment was effected, and specie. Taxes were no longer uniform. In New England, where specie payments have not been suspended, the people were called upon to pay larger contributions than where they were suspended. In Kentucky, as much more was paid by the people in their taxes than was paid, for example, in the state of Ohio, as Kentucky paper was worth more than Ohio paper.

It appeared to Mr. Clay that, in this condition of things, the general government could depend no longer upon these local institutions, multiplied and multiplying daily—coming into existence by the breath of eighteen state sovereignties, some of which, by a single act of volition, had created twenty or thirty at a time. Even if the resumption of specie payments could have been anticipated, the general government remaining passive, it did not seem to him that the general government ought longer to depend upon these local institutions exclusively for aid in its operations. But he did not believe it could be justly so anticipated. It was not the interest of all of them that the renewal should take place of specie payments, and yet, without concert between all or most of them, it could not be effected. With regard to those disposed to return to a regular state of things, great difficulties might arise, as to the time of its commencement.

Considering, then, that the state of the currency was such that no thinking man could contemplate it without the most serious alarm, that it threatened general distress, if it did not ultimately lead to convulsion and subversion of the government, it



appeared to him to be the duty of Congress to apply a remedy, if a remedy could be devised. A national bank, with other auxiliary measures, was proposed as that remedy. Mr. Clay said he determined to examine the question, with as little prejudice as possible arising from his former opinion. He knew that the safest course to him, if he pursued a cold, calculating prudence, was to adhere to that opinion, right or wrong. He was perfectly aware that if he changed, or seemed to change it, he should expose himself to some censure. But, looking at the subject with the light shed upon it by events happening since the commencement of the war, he could no longer doubt. A bank appeared to him not only necessary, but indispensably necessary, in connexion with another measure, to remedy the evils of which all were but too sensible. He preferred, to the suggestions of the pride of consistency, the evident interests of the community, and determined to throw himself upon their candor and justice. That which appeared to him in 1811, under the state of things then existing, not to be necessary to the general government, seemed now to be necessary, under the present state of things. Had he then foreseen what now exists, and no objection had laid against the renewal of the charter, other than that derived from the constitution, he should have voted for the renewal.

Other provisions of the constitution, but little noticed, if noticed at all, on the discussions in Congress in 1811, would seem to urge that body to exert all its powers to restore to a sound state the money of the country. That instrument confers upon Congress the power to coin money, and to regulate the value of foreign coins; and the states are prohibited to coin money, to emit bills of credit, or to make any thing but gold and silver coin a tender in payment of debts. The plain inference is, that the subject of the general currency was intended to be submitted exclusively to the general government. In point of fact, however, the regulation of the general currency is in the hands of the state governments, or, which is the same thing, of the banks created by them. Their paper has every quality of money except that of being made a tender, and even this is imparted to it by some states, in the law by which a creditor must receive it, or submit to a ruinous suspension of the payment of his debt. It was incumbent upon Congress to recover the control which it had lost over the general currency. The remedy called for was one of caution and moderation, but of firmness. Whether a remedy, directly acting upon the banks and their paper thrown into circulation, was in the power of the general government or not, neither Congress nor the community were prepared for the application of such a remedy. An indirect remedy, of a milder character, seemed to be furnished by a national bank. Going into operation with the powerful aid of the treasury of the United States, he believed it would be highly instrumental in the renewal of specie payments. Coupled with the other measure

adopted by Congress for that object, he believed the remedy effectual. The local banks must follow the example, which the national bank would set them, of redeeming their notes by the payment of specie, or their notes will be discredited and put down.

If the constitution, then, warranted the establishment of a bank, other considerations, besides those already mentioned, strongly urged it. The want of a general medium is every where felt. Exchange varies continually, not only between different parts of the Union, but between different parts of the same city. If the paper of a national bank were not redeemed in specie, it would be much better than the current paper, since, although its value, in comparison with specie, might fluctuate, it would afford an uniform standard.

If political power be incidental to banking corporations, there ought perhaps to be in the general government some counterpoise to that which is exerted by the states. Such a counterpoise might not indeed be so necessary, if the states exercised the power to incorporate banks equally, or in proportion to their respective populations. But that is not the case. A single state has a banking capital equivalent, or nearly so, to one-fifth of the whole banking capital of the United States. Four states, combined, have the major part of the banking capital of the United States. In the event of any convulsion, in which the distribution of banking institutions might be important, it may be urged that the mischief would not be alleviated by the creation of a national bank, since its location must be within one of the states. But in this respect the location of the bank is extremely favorable, being in one of the middle states, not likely, from its position as well as its loyalty, to concur in any scheme for subverting the government. And a sufficient security against such contingency is to be found in the distribution of branches in different states, acting and reacting upon the parent institution, and upon each other.

## ADDRESS

*To the people of the Congressional District composed of the counties of Fayette, Woodford and Clarke, in Kentucky, 1824.*

The relations of your representative and of your neighbor, in which I have so long stood, and in which I have experienced so many strong proofs of your confidence, attachment, and friendship, having just been, the one terminated, and the other suspended, I avail myself of the occasion on taking, I hope a temporary, leave of you, to express my unfeigned gratitude for all your favors, and to assure you that I shall cherish a fond and unceasing recollection of them. The extraordinary circumstances in which, during the late session of Congress, I have been placed, and the unmerited animadversions which I have brought upon myself, for an honest and faithful discharge of my public duty, form an additional motive for this appeal to your candor and justice. If, in the office which I have just left, I have abused your confidence and betrayed your interests, I cannot deserve your support in that on the duties of which I have now entered. On the contrary, should it appear that I have been assailed without just cause, and that misguided zeal and interested passions have singled me out as a victim, I cannot doubt that I shall continue to find, in the enlightened tribunal of the public, that cheering countenance and impartial judgment, without which a public servant cannot possibly discharge with advantage the trust confided to him.

It is known to you, that my name had been presented, by the respectable states of Ohio, Kentucky, Louisiana, and Missouri, for the office of President, to the consideration of the American public, and that it had attracted some attention in other quarters of the Union. When, early in November last, I took my departure from the district to repair to this city, the issue of the Presidential election before the people was unknown. Events, however, had then so far transpired as to render it highly probable that there would be no election by the people, and that I should be excluded from the House of Representatives. It became, therefore, my duty to consider, and to make up an opinion on, the respective pretensions of the three gentlemen that might be returned, and at that early period I stated to Dr. Drake, one of the professors in the Medical school of Transylvania University, and to John J. Crittenden, Esq., of Frankfort, my determination to support Mr. Adams in preference to Gen. Jackson. I wrote to Charles Hammond, Esq., of Cincinnati, about the same time, and mentioned certain objections to the election of Mr. Crawford, (among which was that of his continued ill health,) that appeared to me almost insuperable. During my journey hither, and up to near Christmas, it remained uncertain whether Mr. Craw-

ford or I would be returned to the House of Representatives.—Up to near Christmas, all our information made it highly probable that the vote of Louisiana would be given to me, and that I should consequently be returned, to the exclusion of Mr. Crawford. And, whilst that probability was strong, I communicated to Mr. Senator Johnston, from Louisiana, my resolution not to allow my name, in consequence of the small number of votes by which it would be carried into the house, if I were returned, to constitute an obstacle, for one moment, to an election in the House of Representatives.

During the month of December, and the greater part of January, strong professions of high consideration, and of unbounded admiration of me, were made to my friends, in the greatest profusion, by some of the active friends of all the returned candidates. Every body professed to regret, after I was excluded from the house, that I had not been returned to it. I seemed to be the favorite of every body. Describing my situation to a distant friend, I said to him, “I am enjoying, whilst alive, the posthumous honors which are usually awarded to the venerated dead.” A person not acquainted with human nature would have been surprised, in listening to these praises, that the object of them had not been elected by general acclamation. None made more or warmer manifestations of these sentiments of esteem and admiration than some of the friends of Gen. Jackson. None were so reserved as those of Mr. Adams; under an opinion, (as I have learnt since the election,) which they early imbibed, that the western vote would be only influenced by its own sense of public duty; and that if its judgment pointed to any other than Mr. Adams, nothing which they could do would secure it to him.—These professions and manifestations were taken by me for what they were worth. I knew that the sunbeams would quickly disappear, after my opinion should be ascertained, and that they would be succeeded by a storm; although I did not foresee exactly how it would burst upon my poor head. I found myself transformed from a candidate before the people, into an elector for the people. I deliberately examined the duties incident to this new attitude, and weighed all the facts before me, upon which my judgment was to be formed or reviewed. If the eagerness of any of the heated partisans of the respective candidates suggested a tardiness in the declaration of my intention, I believed that the new relation, in which I was placed to the subject, imposed on me an obligation to pay some respect to delicacy and decorum.

Meanwhile that very reserve supplied aliment to newspaper criticism. The critics could not comprehend how a man standing as I had stood toward the other gentlemen, should be restrained, by a sense of propriety, from instantly fighting under the banners of one of them, against the others. Letters were issued from the manufactory at Washington, to come back, after performing long journeys, for Washington consumption. These

letters imputed to "Mr. Clay and his friends a mysterious air, a portentous silence," &c. From dark and distant hints the progress was easy to open and bitter denunciation. Anonymous letters, full of menace and abuse, were almost daily poured in on me. Personal threats were communicated to me, through friendly organs, and I was kindly apprised of all the glories of village effigies which awaited me. A systematic attack was simultaneously commenced upon me from Boston to Charleston, with an object, present and future, which it was impossible to mistake.—No man but myself could know the nature, extent, and variety of means which were employed to awe and influence me. I bore them, I trust, as *your* representative ought to have borne them, and as became me. Then followed the letter, afterwards adopted as his own by Mr. Kremer, to the *Columbian Observer*.—With its character and contents you are well acquainted. When I saw that letter, alledged to be written by a member of the very house over which I was presiding, who was so far designated as to be described as belonging to a particular delegation, by name, a member with whom I might be daily exchanging, at least on my part, friendly salutations, and who was possibly receiving from me constantly acts of courtesy and kindness, I felt that I could no longer remain silent. A crisis appeared to me to have arisen in my public life. I issued my card. I ought not to have put in it the last paragraph, because, although it does not necessarily imply the resort to a personal combat, it admits of that construction: nor will I conceal, that such a possible issue was within my contemplation. I owe it to the community to say, that whatever heretofore I may have done, or by inevitable circumstances, might be forced to do, no man in it holds in deeper abhorrence than I do, that pernicious practice. Condemned as it must be by the judgment and philosophy, to say nothing of the religion, of every thinking man, it is an affair of feeling about which we cannot, although we should, reason. Its true corrective will be found when all shall unite, as all ought to unite, in its unqualified proscription.

A few days after the publication of my card, "Another Card," under Mr. Kremer's name, was published in the *Intelligencer*.—The night before, as I was voluntarily informed, Mr. Eaton, a Senator from Tennessee, and the biographer of Gen. Jackson, (who boarded in the end of this city opposite to that in which Mr. Kremer took up his abode, a distance of about two miles and a half) was closeted for some time with him. Mr. Kremer is entitled to great credit for having overcome all the disadvantages, incident to his early life and want of education, and forced his way to the honorable station of a member of the House of Representatives. Ardent in his attachment to the cause which he had espoused, Gen. Jackson is his idol, and of his blind zeal others have availed themselves, and have made him their dupe and their instrument. I do not pretend to know the object of Mr. Eaton's visit to him. I state the fact, as it was communica-

ted to me, and leave you to judge. Mr. Kremer's card is composed with some care and no little art, and he is made to avow in it, though somewhat equivocally, that he is the author of the letter to the *Columbian Observer*. To Mr. Crowninshield, a member from Massachusetts, formerly Secretary of the Navy, he declared that he was not the author of that letter. In his card, he draws a clear line of separation between my friends and me, acquitting them and undertaking to make good his charges, in that letter, only so far as I was concerned. The purpose of this discrimination is obvious. At that time the election was undecided, and it was therefore as important to abstain from imputations against my friends, as it was politic to fix them upon me. If they could be made to believe that I had been perfidious, in the transport of their indignation, they might have been carried to the support of Gen. Jackson. I received the *National Intelligencer*, containing Mr. Kremer's card, at breakfast, (the usual time of its distribution,) on the morning of its publication. As soon as I read the card, I took my resolution. The terms of it clearly implied that it had not entered into his conception to have a personal affair with me; and I should have justly exposed myself to universal ridicule, if I had sought one with *him*. I determined to lay the matter before the house, and respectfully to invite an investigation of my conduct. I accordingly made a communication to the house, on the same day, the motives for which I assigned. Mr. Kremer was in his place, and, when I sat down, rose and stated that he was prepared and willing to substantiate his charges against me. This was his voluntary declaration, unprompted by his aiders and abettors, who had no opportunity of previous consultation with him on that point. Here was an issue publicly and solemnly joined, in which the accused invoked an inquiry into serious charges against him, and the accuser professed an ability and a willingness to establish them. A debate ensued, on the next day, which occupied the greater part of it, during which Mr. Kremer declared to Mr. Brent, of Louisiana, a friend of mine, and to Mr. Little, of Maryland, a friend of Gen. Jackson, as they have certified, "that he never intended to charge Mr. Clay with corruption or dishonor, in his intended vote for Mr. Adams, as President, or that he had transferred, or could transfer, the votes or interests of his friends; that he (Mr. Kremer,) was among the last men in the nation to make such a charge *against Mr. Clay*; and that his letter was never intended to convey the idea given to it." Mr. Digges, a highly respectable inhabitant of this city, has certified to the same declarations of Mr. Kremer.

A message was also conveyed to me, during the discussion, through a member of the house, to ascertain if I would be satisfied with an explanation which was put on paper and shown me, and which it was stated Mr. Kremer was willing, in his place, to make. I replied that the matter was in the possession of the house. I was afterwards told, that Mr. Ingham, of Pennsylvania,

got hold of that paper, put it in his pocket, and that he advised Mr. Kremer to take no step without the approbation of his friends. Mr. Cook, of Illinois, moved an adjournment of the house, on information which he received of the probability of Mr. Kremer's making a satisfactory atonement on the next day, for the injury which he had done me, which I have no doubt he would have made, if he had been left to the impulses of his native honesty. The house decided to refer my communication to a committee, and adjourned until the next day to appoint it by ballot. In the meantime Mr. Kremer had taken, I presume, or rather there had been forced upon him, the advice of *his friends*, and I heard no more of the apology. A committee was appointed of seven gentlemen, of whom not one was my political friend, but who were among the most eminent members of the body. I received no summons or notification from the committee from its first organization to its final dissolution, but Mr. Kremer was called upon by it to bring forward his proofs. For one moment he pleased to stop here and contemplate his posture, his relation to the house and to me, and the high obligations under which he had voluntarily placed himself. He was a member of one of the most august assemblies upon earth, of which he was bound to defend the purity or expose the corruption, by every consideration which ought to influence a patriot bosom. A most responsible and highly important constitutional duty was to be performed by that assembly. He had chosen in an anonymous letter, to bring against its presiding officer charges, in respect to that duty, of the most flagitious character. These charges comprehended delegations from several highly respectable states. If true, that presiding officer merited not merely to be dragged from the chair, but to be expelled the house. He challenges an investigation into his conduct, and Mr. Kremer boldly accepts the challenge, and promises to sustain his accusation. The committee, appointed by the house itself, with the common consent of both parties, calls upon Mr. Kremer to execute his pledge publicly given, in his proper place, and also previously given in the public prints. Here is the theatre of the alledged arrangements; this the vicinage in which the trial ought to take place. Every thing was here fresh in the recollection of the witnesses, if there were any. Here all the proofs were concentrated. Mr. Kremer was stimulated by every motive which could impel to action; by his consistency of character; by duty to his constituents—to his country; by that of redeeming his solemn pledge; by his anxious wish for the success of his favorite, whose interests could not fail to be advanced by supporting his atrocious charges. But Mr. Kremer had now the benefit of the advice of his friends. He had no proofs, for the plainest of all reasons, because there was no truth in his charges. They saw that to attempt to establish them and to fail, as he must fail in the attempt, might lead to an exposure of the conspiracy, of what he was the organ. They advised



therefore that he should make a retreat, and their adroitness suggested, that in an objection to that jurisdiction of the house, which had been admitted, and in the popular topics of the freedom of the press, *his* duty to his constituents, and the inequality in the condition of the speaker of the house, and a member on the floor, plausible means might be found to deceive the ignorant and conceal his disgrace. A labored communication was accordingly prepared by them, in Mr. Kremer's name, and transmitted to the committee, founded upon these suggestions. Thus the valiant champion, who had boldly stepped forward, and promised as a representative of *the* people, to "cry aloud and spare not," forgot all his gratuitous gallantry and boasted patriotism, and sunk at once into profound silence.

With these remarks, I will, for the present, leave him, and proceed to assign the reasons to you, to whom alone I admit myself to be officially responsible, for the vote which I gave on the Presidential election. The first inquiry which it behoved me to make was, as to the influence which ought to be exerted on my judgment, by the relative state of the electoral votes which the three returned candidates brought into the house, from the colleges.—Gen. Jackson obtained ninety-nine, Mr. Adams eighty-four, and Mr. Crawford forty-one. Ought the fact of a plurality being given to one of the candidates to have any, and what, weight? If the constitution had intended that it should have been decisive, the constitution would have made it decisive, and interdicted the exercise of any discretion on the part of the House of Representatives. The constitution has not so ordained, but, on the contrary, it has provided, that "from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall *choose*, immediately, by ballot, a President." Thus a discretion is necessarily invested in the house—for choice implies examination, comparison, judgment. The fact, therefore, that one of the three persons was the highest returned, not being, by the constitution of the country, conclusive upon the judgment of the house, it still remains to determine what is the true degree of weight belonging to it? It has been contended that it should operate, if not as an instruction, at least in the nature of one, and that in this form it should control the judgment of the house. But this is the same argument of conclusiveness, which the constitution does not enjoin, thrown into a different, but more imposing shape. Let me analyze it. There are certain states, the aggregate of whose electoral votes conferred upon the highest returned candidate, indicates their wish that he should be the President. Their votes amount in number to ninety-nine, out of two hundred and sixty-one electoral votes of the whole Union. These ninety-nine do not, and cannot, of themselves, make the President. If the fact of particular states giving ninety-nine votes, can, according to any received notions of the doctrine of instruction, be regarded in that light, to whom are those instructions to be considered ad-

ressed? According to that doctrine, the people, who appoint, have the right to direct, by their instruction, in certain cases, the course of the representative whom they appoint. The states, therefore, who gave those ninety-nine votes, may in some sense be understood thereby to have instructed *their* representatives in the house to vote for the person on whom they were bestowed, in the choice of a President. But most clearly the representatives coming from other states, which gave no part of those ninety-nine votes, cannot be considered as having been under any obligation to surrender their judgments to those of the states which gave the ninety-nine votes. To contend that they are under such an obligation would be to maintain that the people of one state have a right to instruct the representatives from another state. It would be to maintain a still more absurd proposition, that, in a case where the representatives from a state did not hold themselves instructed and bound by the will of that state, as indicated in its electoral college, the representatives from another state were, nevertheless, instructed and bound by that alien will. Thus the entire vote of North Carolina, and a large majority of that of Maryland, in their respective electoral colleges, were given to one of the three returned candidates, for whom the delegation from neither of those states voted. And yet the argument combatted requires that the delegation from Kentucky, who do not represent the people of North Carolina nor Maryland, should be instructed by, and give an effect to, the indicated will of the people of those two states, when their own delegation paid no attention to it. Doubtless, those delegations felt themselves authorised to look into the actual composition of, and all other circumstances connected with, the majorities which gave the electoral votes, in their respective states; and felt themselves justified, from a view of the whole ground, to act upon their responsibility and according to their best judgments, disregarding the electoral votes in their states. And are representatives from a different state not only bound by the will of the people of a different commonwealth, but forbidden to examine into the manner by which the expression of that will was brought about—an examination which the immediate representatives themselves feel it their duty to make?

Is the fact, then, of a plurality to have no weight? Far from it. Here are twenty-four communities, united under a common government. The expression of the will of any one of them is entitled to the most respectful attention. It ought to be patiently heard and kindly regarded by the others; but it cannot be admitted to be conclusive upon them. The expression of the will of ninety-nine out of two hundred and sixty-one electors is entitled to very great attention, but that will cannot be considered as entitled to control the will of the one hundred and sixty-two electors who have manifested a different will. To give it such controlling influence, would be a subversion of the fundamental maxim of the republic—that the majority should govern. The

will of the ninety-nine can neither be allowed rightfully to control the remaining one hundred and sixty-two, nor any one of the one hundred and sixty-two electoral votes. It may be an argument, a persuasion, addressed to all and to each of them, but it is binding and obligatory upon none. It follows, then, that the fact of a plurality was only one among the various considerations which the House was called upon to weigh, in making up its judgment. And the weight of the consideration ought to have been regulated by the extent of the plurality. As between General Jackson and Mr. Adams, the vote standing in the proportions of ninety-nine to eighty-four, it was entitled to less weight; as between the General and Mr. Crawford, it was entitled to more, the vote being as ninety-nine to forty-one. The concession may even be made that, upon the supposition of an equality of pretensions between competing candidates, the preponderance ought to be given to the fact of a plurality.

With these views of the relative state of the vote with which the three returned candidates entered the House, I proceeded to examine the other considerations which belonged to the question. For Mr. Crawford, who barely entered the House, with only four votes more than one candidate not returned, and upon whose case, therefore, the argument derived from the fact of plurality operated with strong, though not decisive force, I have ever felt much personal regard. But I was called upon to perform a solemn public duty, in which my private feelings, whether of affection or aversion, were not to be indulged, but the good of my country only consulted. It appeared to me that the precarious state of that gentleman's health, although I participated with his best friends in all their regrets and sympathies on account of it, was conclusive against him, to say nothing of other considerations, of a public nature, which would have deserved examination, if, happily, in that respect he had been differently circumstanced. He had been ill near eighteen months; and, although I am aware that his actual condition was a fact depending upon evidence, and that the evidence in regard to it, which had been presented to the public, was not perfectly harmonious; I judged for myself upon what I saw and heard. He may, and I ardently hope will, recover; but I did not think it became me to assist in committing the executive administration of this great republic on the doubtful contingency of the restoration to health of a gentleman who had been so long and so seriously afflicted. Moreover, if, under all the circumstances of his situation, his election had been desirable, I did not think it practicable. I believed, and yet believe, that, if the votes of the western states, given to Mr. Adams, had been conferred on Mr. Crawford, the effect would have been to protract in the House the decision of the contest, to the great agitation and distraction of the country, and possibly to defeat an election altogether—the very worst result, I thought, that could happen. It appeared to me, then, that, sooner or later, we must arrive at

the only practical issue of the contest before us, and that was between Mr. Adams and General Jackson, and I thought that the earlier we got there, the better for the country, and for the House.

In considering this only alternative, I was not unaware of your strong desire to have a western President; but I thought that I knew enough of your patriotism and magnanimity, displayed on so many occasions, to believe that you could rise above the mere gratification of sectional pride, if the common good of the whole required you to make the sacrifice of local partiality. I solemnly believed it did, and this brings me to the most important consideration which belonged to the whole subject—that arising out of the respective fitness of the only two real competitors, as it appeared to my best judgment. In speaking of General Jackson, I am aware of the delicacy and respect which are justly due to that distinguished citizen. It is far from my purpose to attempt to disparage him. I could not do it if I were capable of making the attempt; but I shall nevertheless speak of him as becomes me, with truth. I did not believe him so competent to discharge the various, intricate and complex duties of the office of Chief Magistrate, as his competitor. He has displayed great skill and bravery as a military commander, and his renown will endure as long as the means exist of preserving a recollection of human transactions. But to be qualified to discharge the duties of President of the United States, the incumbent must have more than mere military attainments—he must be a STATESMAN. An individual may be a gallant and successful general, an eminent lawyer, an eloquent divine, a learned physician, or an accomplished artist; and doubtless the union of all these characters in the person of a Chief Magistrate would be desirable; but no one of them, nor all combined, will qualify him to be President, unless he superadds that indispensable requisite of being a statesman. Far from meaning to say that it is an objection to the elevation, to the Chief Magistracy, of any person, that he is a military commander, if he unites the other qualifications, I only intend to say that, whatever may be the success or splendor of his military achievements, if his qualifications be *only* military, that is an objection, and, I think, a decisive objection, to his election. If General Jackson has exhibited, either in the councils of the Union, or in those of his own state, or in those of any other state or territory, the qualities of a statesman, the evidence of the fact has escaped my observation. It would be as painful as it is unnecessary to recapitulate some of the incidents, which must be fresh in your recollection, of his public life. But I was greatly deceived in my judgment if they proved him to be endowed with that prudence, temper and discretion which are necessary for civil administration. It was in vain to remind me of the illustrious example of Washington. There was in that extraordinary person united a serenity of mind, a cool and collected wisdom, a cautious and deliberate

judgment, a perfect command of the passions, and, throughout his whole life, a familiarity and acquaintance with business and civil transactions which rarely characterize any human being. No man was ever more deeply penetrated than he was with profound respect for the safe and necessary principle of the entire subordination of the military to the civil authority. I hope I do no injustice to General Jackson when I say, that I could not recognize, in his public conduct, those attainments, for both civil government and military command, which cotemporaries and posterity have alike unanimously concurred in awarding as yet only to the father of his country. I was sensible of the gratitude which the people of this country justly feel towards General Jackson for his brilliant military services. But the impulses of public gratitude should be controlled, as it appeared to me, by reason and discretion, and I was not prepared blindly to surrender myself to the hazardous indulgence of a feeling, however amiable and excellent that feeling may be when properly directed. It did not seem to me to be wise or prudent, if, as I solemnly believe, General Jackson's competency for the office was highly questionable, that he should be placed in a situation where neither his fame nor the public interests would be advanced. General Jackson himself would be the last man to recommend or vote for any one for a place for which he thought him unfit. I felt myself sustained by his own reasoning, in his letter to Mr. Monroe, in which, speaking of the qualifications of our venerable Shelby for the Department of War, he remarked: "I am compelled to say to you, that the acquirements of this worthy man are not competent to the discharge of the multiplied duties of this department. I therefore hope he may not accept the appointment. I am fearful, if he does, he will not add much splendor to his present well-earned standing as a public character." Such was my opinion of General Jackson, in reference to the Presidency. His conviction of Governor Shelby's unfitness, by the habits of his life, for the appointment of Secretary of War, were not more honest nor stronger than mine were of his own want of experience, and the necessary civil qualifications to discharge the duties of a President of the United States. In his elevation to this office, too, I thought I perceived the establishment of a fearful precedent; and I am mistaken in all the warnings of instructive history, if I erred in my judgment. Undoubtedly there are other and many dangers to public liberty, besides that which proceeds from military idolatry, but I have yet to acquire the knowledge of it, if there be one more perilous or more frequent.

Whether Mr. Adams would or would not have been my choice of a President, if I had been left freely to select from the whole mass of American citizens, was not the question submitted to my decision. I had no such liberty; but I was circumscribed, in the selection I had to make, to one of the three gentlemen whom the people themselves had thought proper to present to the

**House of Representatives.** Whatever objections might be supposed to exist against him, still greater appeared to me to apply to his competitor. Of Mr. Adams, it is but truth and justice to say, that he is highly gifted, profoundly learned, and long and greatly experienced in public affairs, at home and abroad. Intimately conversant with the rise and progress of every negotiation with foreign powers, pending or concluded; personally acquainted with the capacity and attainments of most of the public men of this country whom it might be proper to employ in the public service; extensively possessed of much of that valuable kind of information which is to be acquired neither from books nor tradition, but which is the fruit of largely participating in public affairs; discreet and sagacious; he would enter on the duties of the office with great advantages. I saw in his election the establishment of no dangerous example. I saw in it, on the contrary, only conformity to the safe precedents which had been established in the instances of Mr. Jefferson, Mr. Madison and Mr. Monroe, who had respectively filled the same office from which he was to be translated.

A collateral consideration of much weight was derived from the wishes of the Ohio delegation. A majority of it, during the progress of the session, made up their opinions to support Mr. Adams, and they were communicated to me. They said, "Ohio supported the candidate who was the choice of Kentucky. We failed in our common exertions to secure his election. Now, among those returned, we have a decided preference, and we think you ought to make some sacrifice to gratify us." Was not much due to our neighbor and friend?

I considered, with the greatest respect, the resolution of the General Assembly of Kentucky, requesting the delegation to vote for General Jackson. That resolution, it is true, placed us in a peculiar situation. Whilst every other delegation, from every other state in the Union, was left by its Legislature entirely free to examine the pretensions of all the candidates, and to form its unbiassed judgment, the General Assembly of Kentucky thought proper to interpose, and request the delegation to give its vote to one of the candidates, whom they were pleased to designate. I felt a sincere desire to comply with a request emanating from a source so respectable, if I could have done so consistently with those paramount duties which I owed to you and to the country. But, after full and anxious consideration, I found it incompatible with my best judgment of those duties to conform to the request of the General Assembly. The resolution asserts that it was the wish of the people of Kentucky that their delegation should vote for the General. It did not inform me by what means that body had arrived at a knowledge of the wish of the people. I knew that its members had repaired to Frankfort before I departed from home to come to Washington. I knew that their attention was fixed on important local concerns, well entitled, by their magnitude, exclusively to engross



it. No election, no general expression of the popular sentiment, had occurred since that in November, when electors were chosen, and at that the people, by an overwhelming majority, had decided against General Jackson. I could not see how such an expression *against* him, could be interpreted into that of a desire *for* his election. If, as is true, the candidate whom they preferred was not returned to the House, it is equally true that the *state* of the contest, as it presented itself here to me, had never been considered, discussed and decided by the people of Kentucky, in their collective capacity. What would have been their decision on this *new* state of the question, I might have undertaken to conjecture, but the certainty of any conclusion of fact, as to their opinion, at which I could arrive, was by no means equal to that certainty of conviction of my duty to which I was carried by the exertion of my best and most deliberate reflections. The letters from home, which some of the delegation received, expressed the most opposite opinions, and there were not wanting instances of letters from some of the very members who had voted for that resolution, advising a different course. I received from a highly respectable portion of my constituents a paper, instructing me as follows: "We the undersigned voters in the Congressional district, having viewed the instruction or request of the Legislature of Kentucky, on the subject of choosing a President and Vice President of the United States, with regret, and the said request or instruction to our Representative in Congress from this district being without our knowledge or consent, we, for many reasons known to ourselves, connected with so momentous an occasion, hereby *instruct* our Representative in Congress to vote on this occasion agreeably to his own judgment, and by the best lights he may have on the subject, with or without the consent of the Legislature of Kentucky." This instruction came both unexpectedly and unsolicited by me, and it was accompanied by letters assuring me that it expressed the opinion of a majority of my constituents. I could not, *therefore*, regard the resolution as conclusive evidence of your wishes.

Viewed as a mere request, as it purported to be, the general assembly doubtless had the power to make it. But, then, with great deference, I think it was worthy of serious consideration whether the dignity of the general assembly ought not to have induced it to forbear addressing itself, not to another legislative body, but to a small part of it, and requesting the members who composed that part, in a case which the constitution had confided to them, to vote according to the wishes of the general assembly, whether those wishes did or did not conform to their sense of duty. I could not regard the resolution as an instruction; for, from the origin of our state, its legislature has never assumed nor exercised the right to instruct the representatives in Congress. I did not recognize the right, therefore, of the legislature to instruct me. I recognized that right only when



exerted by you. That the portion of the public servants who made up the general assembly have no right to instruct that portion of them who constituted the Kentucky delegation in the House of Representatives, is a proposition too clear to be argued. The members of the general assembly would have been the first to behold as a presumptuous interposition, any instruction, if the Kentucky delegation could have committed the absurdity to issue, from this place, any instruction to them to vote in a particular manner on any of the interesting subjects which lately engaged their attention at Frankfort. And although nothing is further from my intention than to impute either absurdity or presumption to the general assembly, the adoption of the resolution referred to, I must say, that the difference between an instruction emanating from them to the delegation, and from the delegation to them, is not in principle, but is to be found only in the degree of superior importance which belongs to the general assembly.

Entertaining these views of the election on which it was made my duty to vote, I felt myself bound, in the exercise of my best judgment, to prefer Mr. Adams; and I accordingly voted for him. I should have been highly gratified if it had not been my duty to vote on the occasion; but that was not my situation, and I did not choose to shrink from any responsibility which appertained to your representative. Shortly after the election, it was rumored that Mr. Kremer was preparing a publication, and the preparations for it which were making excited much expectation. Accordingly, on the twenty-sixth of February, the address, under his name, to the "Electors of the Ninth Congressional District of the State of Pennsylvania," made its appearance in the Washington City Gazette. No member of the house, I am persuaded, believed that Mr. Kremer wrote one paragraph of that address, or of the plea, which was presented to the committee, to the jurisdiction of the house. Those who counselled him, and composed both papers, and their purposes, were just as well known as the author of any report from a committee to the house. The first observation which is called for by the address is the place of its publication. That place was in this city, remote from the centre of Pennsylvania, near which Mr. Kremer's district is situated, and in a paper having but a very limited, if any circulation in it. The time is also remarkable. The fact that the President intended to nominate me to the senate for the office which I now hold, in the course of a few days, was then well known, and the publication of the address was, no doubt, made less with an intention to communicate information to the electors of the ninth Congressional District of Pennsylvania, than to affect the decision of the Senate on the intended nomination. Of the character and contents of that address of Messrs. George Kremer & Co., made up, as it is, of assertion without proof, of inferences without premises, and of careless, jocular, and

quizzing conversations of some of my friends, to which I was no party, and of which I had never heard, it is not my intention to say much. It carried its own refutation, and the parties concerned saw its abortive nature the next day, in the indignant countenance of every unprejudiced and honorable member. In his card, Mr. Kremer had been made to say, that he held himself ready "to prove, to the satisfaction of unprejudiced minds, enough to satisfy them of the accuracy of the statements which are contained in that letter, *to the extent that they concern the course of conduct of H. Clay.*" The object for excluding my friends from this pledge has been noticed. But now the election was decided, and there no longer existed a motive for discriminating between them and me. Hence the only statements that are made, in the address, having the semblance of proof, relate rather to them than to me; and the design was, by establishing something like facts upon them, to make those facts react upon me.

Of the few topics of the address upon which I shall remark, the first is, the accusation, brought forward against me, of violating instructions. If the accusation were true, who was the party offended, and to whom was I amenable? If I violated any instructions, they must have been yours, since you only had the right to give them, and to you alone was I responsible. Without allowing hardly time for you to hear of my vote, without waiting to know what your judgment was of my conduct, George Kremer & Co. chose to arraign me before the American public as the violator of instructions which I was bound to obey. If, instead of being, as you are, and I hope always will be, vigilant observers of the conduct of your public agents, jealous of your rights, and competent to protect and defend them, you had been ignorant and culpably confiding, the gratuitous interposition, as your advocate, of the honorable George Kremer, of the ninth Congressional District in Pennsylvania, would have merited your most grateful acknowledgments. Even upon that supposition, his arraignment of me would have required for its support one small circumstance, which happens not to exist, and that is, the fact of your having actually instructed me to vote according to his pleasure.

The relations in which I stood to Mr. Adams constitute the next theme of the address, which I shall notice. I am described as having assumed "a position of peculiar and decided hostility to the election of Mr. Adams," and expressions towards him are attributed to me, which I never used. I am made also responsible for "pamphlets and essays of great ability," published by my friends in Kentucky in the course of the canvass. The injustice of the principle of holding me thus answerable, may be tested by applying it to the case of General Jackson, in reference to publications issued, for example, from the *Columbia Observer*. That I was not in favor of the election of Mr. Adams, when the contest was before the people, is most certain. Neither was I

in favor of that of Mr. Crawford or General Jackson. That I ever did any thing against Mr. Adams, or either of the other gentlemen, inconsistent with a fair and honorable competition, I utterly deny. My relations to Mr. Adams have been the subject of much misconception, if not misrepresentation. I have been stated to be under a public pledge to expose some nefarious conduct of that gentleman, during the negotiation at Ghent, which would prove him to be entirely unworthy of public confidence ; and that with a knowledge of his perfidy, I nevertheless voted for him. If these imputations are well founded, I should, indeed, be a fit object for public censure ; but if, on the contrary, it shall be found that others, inimical both to him and to me, have substituted their own interested wishes for my public promises, I trust that the indignation, which they would excite, will be turned from me. My letter, addressed to the editors of the *Intelligencer*, under date of the fifteenth of November, 1822, is made the occasion for ascribing to me the promise and the pledge to make those treasonable disclosures on Mr. Adams. Let that letter speak for itself, and it will be seen how little justification there is for such an assertion. It adverts to the controversy which had arisen between Messrs. Adams and Russell, and then proceeds to state that, "in the course of several publications, of which it has been the occasion, and, particularly in the appendix to a pamphlet which had been recently published by the Hon. John Quincy Adams, I think there are some errors, no doubt unintentional, both as to matters of fact and matters of opinion, in regard to the transactions at Ghent, relating to the navigation of the Mississippi, and certain liberties claimed by the United States in the fisheries, *and to the part which I bore in those transactions*. These important interests are now well secured,"—"An account, therefore, of what occurred in the negotiation at Ghent, on those *two* subjects, is not, perhaps, necessary to the present or future security of any of the rights of the nation, and is *only* interesting as appertaining to its *past* history. With these impressions, and being extremely unwilling to present myself, at any time, before the public, I had *almost* resolved to remain silent, and thus expose myself to the inference of an acquiescence in the correctness of all the statements made by both my colleagues ; but I have, on more reflection, thought it may be expected of me, and be considered as a duty on my part, to contribute all in my power towards a full and faithful understanding of the transactions referred to. Under this conviction, I will, at some future period, more propitious than the present to calm and dispassionate consideration, and when there can be no misinterpretation of motives, lay before the public a narrative of those transactions, as I understood them."

From even a careless perusal of that letter, it is apparent, that the only two subjects of the negotiations at Ghent, to which it refers, were the navigation of the Mississippi and certain fishing liberties ; that the errors, which I had supposed were committed,

applied to both Mr. Russell and Mr. Adams, though more particularly to the appendix of the latter; that they were unintentional; that they affected myself principally; that I deemed them of no public importance, as connected with the then, or future, security of any of the rights of the nation, but only interesting to its past history; that I doubted the necessity of my offering to the public any account of those transactions; and that the narrative which I promised was to be presented at a season of more calm, and when there could be no misinterpretation of motives. Although Mr. Adams believes otherwise, I yet think there are some unintentional errors, in the controversial papers between him and Mr. Russell. But I have reserved to myself an exclusive right of judging when I shall execute the promise which I have made, and I shall be neither quickened nor retarded in its performance, by the friendly anxieties of any of my opponents.

If injury accrue to any one by the delay in publishing the narrative, the public will not suffer by it. It is already known by the publication of the British and American projets, the protocols, and the correspondence between the respective plenipotentiaries, that the British government made at Ghent a demand of the navigation of the Mississippi, by an article in their projet nearly in the same words as those which were employed in the treaty of 1783; that a majority of the American commissioners was in favor of acceding to that demand, upon the condition that the British government would concede to us the same fishing liberties, within their jurisdiction, as were secured to us by the same treaty of 1783; and that both demands were finally abandoned. The fact of these mutual propositions was communicated by me to the American public in a speech which I delivered in the House of Representatives, on the twenty-ninth day of January, 1816. Mr. Hopkinson had arraigned the terms of the treaty of peace, and charged upon the war and the administration, the loss of the fishing liberties, within the British jurisdiction, which we enjoyed prior to the war. In vindicating, in my reply to him, the course of the government, and the conditions of the peace, I stated:

“When the British commissioners demanded, in their projet, a renewal to Great Britain of the right to the navigation of the Mississippi, secured by the treaty of 1783, a bare majority of the American commissioners offered to renew it, upon the condition that the liberties in question were renewed to us. He was not one of that majority. He would not trouble the committee with his reasons for being opposed to the offer. A majority of his colleagues, actuated, he believed, by the best motives, made, however, the offer, and it was refused by the British commissioners.” [See Daily National Intelligencer, of the twenty-first of March, 1816.] And what I thought of my colleagues of the majority, appears from the same extract. The spring after the termination of the negotiations at Ghent, I went to London, and

entered upon a new and highly important negotiation with two of them, (Messrs. Adams and Gallatin,) which resulted, on the third day of July, 1815, in the commercial convention, which has been since made the basis of most of our commercial arrangements with foreign powers. Now, if I had discovered at Ghent, as has been asserted, that either of them was false and faithless to his country, would I have voluntarily commenced with them another negotiation? Further: there never has been a period, during our whole acquaintance, that Mr. Adams and I have not exchanged when we have met, friendly salutations, and the courtesies and hospitalities of social intercourse.

The address proceeds to characterize the support which I gave to Mr. Adams as unnatural. The authors of the address have not stated why it is unnatural, and we are therefore left to conjecture their meaning. Is it because Mr. Adams is from New England, and I am a citizen of the west? If it be unnatural in the western states to support a citizen of New England, it must be equally unnatural in the New England states to support a citizen of the west. And, on the same principle, the New England states ought to be restrained from concurring in the election of a citizen in the southern states, or the southern states from co-operating in the election of a citizen of New England. And, consequently, the support which the last three Presidents have derived from New England, and that which the Vice-President recently received, has been most unnaturally given. The tendency of such reasoning would be to denationalize us, and to contract every part of the Union, within the narrow, selfish limits of its own section. It would be still worse; it would lead to the destruction of the Union itself. For if it be unnatural in one section to support a citizen in another, the Union itself must be unnatural; all our ties, all our glories, all that is animating in the past, all that is bright and cheering in the future, must be unnatural. Happily, such is the admirable texture of our Union, that the interests of all its parts are closely interwoven. If there are strong points of affinity between the south and the west, there are interests of not less, if not greater, strength and vigor, binding the west, and the north, and the east.

Before I close this address, it is my duty, which I proceed to perform with great regret, on account of the occasion which calls for it, to invite your attention to a letter, addressed by General Jackson to Mr. Swartwout, on the twenty-third day of February last. The names of both the General and myself had been before the American public for its highest office. We had both been unsuccessful. The unfortunate have usually some sympathy for each other. For myself, I claim no merit for the cheerful acquiescence which I have given in a result by which I was excluded from the House. I have believed that the decision by the constituted authorities, in favor of others, has been founded upon a conviction of the superiority of their preten-

sions. It has been my habit, when an election is once decided, to forget, as soon as possible, all the irritating circumstances which attended the preceding canvass. If one be successful, he should be content with his success. If he have lost it, railing will do no good. I never gave General Jackson nor his friends any reason to believe that I would, in any contingency, support him. He had, as I thought, no public claim, and, I will now add, no personal claims, if these ought to be ever considered, to my support. No one, therefore, ought to have been disappointed or chagrined that I did not vote for him, no more than I was neither surprised nor disappointed that he did not, on a more recent occasion, feel it to be his duty to vote for me. After commenting upon a particular phrase used in my letter to Judge Brooke, a calm reconsideration of which will, I think, satisfy any person that it was not employed in an offensive sense, if indeed it have an offensive sense, the General, in his letter to Mr. Swartwout, proceeds to remark: "No one beheld me seeking, through art or management, to entice any Representative in Congress from a conscientious responsibility of his own, or the wishes of his constituents. No midnight taper burnt by me; no secret conclaves were held, nor cabals entered into to persuade any one to a violation of pledges given, or of instructions received. By me no plans were concerted to impair the pure principles of our republican institutions, nor to prostrate that fundamental maxim which maintains the supremacy of the people's will. On the contrary, having never in any manner, before the people or Congress, interfered in the slightest degree with the question, my conscience stands void of offence, and will go quietly with me, regardless of the insinuations of those who, through management, may seek an influence not sanctioned by integrity and merit." I am not aware that this defence of himself was rendered necessary by any charges brought forward against the General. Certainly I never made any such charges against him. I will not suppose that, in the passages cited, he intended to impute to me the misconduct which he describes, and yet taking the whole context of his letter together, and coupling it with Mr. Kremer's address, it cannot be disguised that others may suppose he intended to refer to me. I am quite sure that, if he did, he could not have formed those unfavorable opinions of me upon any personal observation of my conduct made by himself; for a supposition that they were founded upon his own knowledge, would imply that my lodgings and my person had been subjected to a system of espionage wholly incompatible with the open, manly and honorable conduct of a gallant soldier. If he designed any insinuations against me, I must believe that he made them upon the information of others, of whom I can only say that they have deceived his credulity, and are entirely unworthy of all credit. I entered into no cabals; I held no secret conclaves; I enticed no man to violate pledges given or instructions received. The members from Ohio, and from the



other western states, with whom I voted, were all of them as competent as I was to form an opinion on the pending election. The McArthurs and the Metcalfes, and the other gentlemen from the west, (some of whom have, if I have not, bravely "made an effort to repel an invading foe,") are as incapable of dishonor as any men breathing—as disinterested, as unambitious, as exclusively devoted to the best interests of their country. It was quite as likely that I should be influenced by them, as that I could control their votes. Our object was not to impair, but to preserve from all danger, the purity of our republican institutions. And how I prostrated the maxim which maintains the supremacy of the people's will, I am entirely at a loss to comprehend. The illusions of the General's imagination deceive him. *The people* of the United States had never decided the election in his favor. If the people had *willed* his election, he would have been elected. It was because they had *not willed* his election, nor that of any other candidate, that the duty of making a choice devolved on the House of Representatives.

The General remarks; "Mr. Clay has never yet risked himself for his country. He has never sacrificed his repose, nor made an effort to repel an invading foe; of *course* his conscience assured him it was altogether wrong in any other man to lead his countrymen to battle and victory." The logic of this conclusion is not very striking. General Jackson fights better than he reasons. When have I failed to concur in awarding appropriate honors to those who, on the sea or on the land, have sustained the glory of our arms, if I could not always approve of the acts of some of them? It is true, that it has been my misfortune never to have repelled an invading foe, nor to have led my countrymen to victory. If I had, I should have left to others to proclaim and appreciate the deed. The General's destiny and mine have led us in different directions. In the civil employments of my country, to which I have been confined, I regret that the little service which I have been able to render it falls far short of my wishes. But why this denunciation of those who have not repelled an invading foe, or led our armies to victory? At the very moment when he is inveighing against an objection, to the election to the Presidency, founded upon the exclusive military nature of his merits, does he not perceive that he is establishing its validity by proscribing every man who has not successfully fought the public enemy? And that, by such a general proscription, and the requirement of successful military service as the only condition of civil preferment, the inevitable effect would be the ultimate establishment of a military government?

If the contents of the letter to Mr. Swartwout were such as justly to excite surprise, there were other circumstances not calculated to diminish it. Of all the citizens of the United States, that gentleman is one of the last to whom it was necessary to address any vindication of General Jackson. He had given



abundant evidence of his entire devotion to the cause of the General. He was here after the election, and was one of a committee who invited the General to a public dinner, proposed to be given to him in this place. My letter to Judge Brooke was published in the papers of this city on the twelfth of February. The General's note, declining the invitation of Messrs. Swartwout and others, was published on the fourteenth, in the National Journal. The probability therefore is, that he did not leave this city until after he had a full opportunity to receive, in a personal interview with the General, any verbal observations upon it which he might have thought proper to make. The letter to Mr. Swartwout bears date the twenty-third of February. If received by him in New-York, it must have reached him, in the ordinary course of the mail, on the twenty-fifth or twenty-sixth. Whether intended or not as a "private communication," and not for the "public eye," as alledged by him, there is much probability in believing that its publication in New-York, on the fourth of March, was then made, like Mr. Kremer's address, with the view to its arrival in this city in time to affect my nomination to the Senate. In point of fact, it reached here the day before the Senate acted on that nomination.

Fellow-citizens, I am sensible that, generally, a public officer had better abstain from any vindication of his conduct, and leave it to the candor and justice of his countrymen, under all its attending circumstances. Such has been the course which I have heretofore prescribed to myself. This is the first, as I hope it may be the last, occasion of my thus appearing before you. The separation which has just taken place between us, and the venom, if not the vigor, of the late onsets upon my public conduct, will, I hope, be allowed in this instance to form an adequate apology. It has been upwards of twenty years since I first entered the public service. Nearly three-fourths of that time, with some intermissions, I have represented the same district in Congress, with but little variation in its form. During that long period, you have beheld our country passing through scenes of peace and war, of prosperity and adversity, and of party divisions, local and general, often greatly exasperated against each other. I have been an actor in most of those scenes. Throughout the whole of them you have clung to me with an affectionate confidence which has never been surpassed. I have found in your attachment, in every embarrassment in my public career, the greatest consolation, and the most encouraging support. I should regard the loss of it as one of the most afflicting public misfortunes which could befall me. That I have often misconceived your true interests, is highly probable. That I have ever sacrificed them to the object of personal aggrandizement, I utterly deny. And, for the purity of my motives, however in other respects I may be unworthy to approach the Throne of Grace and Mercy, I appeal to the justice of my God, with all the confidence which can flow from a consciousness of perfect rectitude.

H. CLAY.

## SPEECH AT HANOVER, VA.

*July 10, 1840.*

Mr. Clay rose and addressed the company substantially as follows :

I think, friends and fellow citizens, that, availing myself of the privilege of my long service in the public councils, just adverted to, the resolution, which I have adopted, is not unreasonable, of leaving to younger men, generally, the performance of the duty, and the enjoyment of the pleasure, of addressing the people in their primary assemblies. After the event which occurred last winter at the capital of Pennsylvania, I believed it due to myself, to the Whig cause, and to the country, to announce to the public, with perfect truth and sincerity, and without any reserve, my fixed determination heartily to support the nomination of William Henry Harrison, there made. To put down all misrepresentations, I have, on suitable occasions, repeated this annunciation ; and now declare my solemn conviction that the purity and security of our free institutions, and the prosperity of the country imperatively demand the election of that citizen to the office of Chief Magistrate of the United States.

But the occasion forms an exception from the rule which I have prescribed to myself. I have come here to the county of my nativity in the spirit of a pilgrim, to meet, perhaps for the last time, the companions and the descendants of the companions of my youth. Wherever we roam, in whatever climate or land we are cast by the accidents of human life, beyond the mountains or beyond the ocean, in the legislative halls of the capitol, or in the retreats and shades of private life, our hearts turn with an irresistible instinct to the cherished spot which ushered us into existence. And we dwell with delightful associations on the recollection of the streams in which, during our boyish days, we bathed, the fountains at which we drunk, the piney fields, the hills and the valleys where we sported, and the friends who shared these enjoyments with us. Alas ! too many of these friends of mine have gone whither we must all shortly go, and the presence here of the small remnant left behind attests both our loss and our early attachment. I would greatly prefer, my friends, to employ the time which this visit affords in friendly and familiar conversation on the virtues of our departed companions, and on the scenes and adventures of our younger days ; but the expectation which prevails, the awful state of our beloved country, and the opportunities which I have enjoyed in its public councils, impose on me the obligation of touching on topics less congenial with the feelings of my heart, but possessing higher public interest. I assure you, fellow citizens, however, that I present myself before you for no purpose of exciting prejudices or inflaming passions, but to speak to you in all soberness and truth, and to

testify to the things which I know, or the convictions which I entertain, as an ancient friend, who has lived long and whose career is rapidly drawing to a close. Throughout an arduous life, I have endeavored to make truth and the good of our country the guides of my public conduct; but in Hanover county, for which I cherish sentiments of respect, gratitude and veneration, above all other places, would I avoid saying any thing that I did not sincerely and truly believe.

Why is the plough deserted, the tools of the mechanic laid aside, and all are seen rushing to gatherings of the people?—What occasions those vast and unusual assemblages which we behold in every state and in almost every neighborhood? Why those conventions of the people, at a common centre, from all the extremities of this vast Union, to consult together upon the sufferings of the community, and to deliberate on the means of deliverance? Why this rabid appetite for public discussions?—What is the solution of the phenomenon, which we observe, of a great nation, agitated upon its whole surface, and at its lowest depths, like the ocean when convulsed by some terrible storm? There must be a cause, and no ordinary cause.

It has been truly said, in the most memorable document that ever issued from the pen of men, that “all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.” The recent history of our people furnishes confirmation of that truth. They are active, enterprising and intelligent; but are not prone to make groundless complaints against public servants. If we now every where behold them in motion, it is because they feel that the grievances under which they are writhing can be no longer tolerated. They feel the absolute necessity of a change, that no change can render their condition worse, and that any change must better it. This is the judgment to which they have come: this the brief and compendious logic which we daily hear. They know that, in all the dispensations of Providence, they have reason to be thankful and grateful; and if they had not, they would be borne with fortitude and resignation. But there is a pervading conviction and persuasion that, in the administration of government, there has been something wrong, radically wrong, and that the vessel of state has been in the hands of selfish, faithless and unskilful pilots, who have conducted it amidst the breakers.

In my deliberate opinion, the present distressed and distracted state of the country may be traced to the single cause of the action, the encroachments, and the usurpations of the executive branch of the government. I have not time here to exhibit and to dwell upon all the instances of these, as they have occurred in succession, during the last twelve years. They have been again and again exposed on other more fit occasions. But I have thought this a proper opportunity to point out the enormity of the pretensions, principles and practices of that department,

as they have been, from time to time, disclosed in these late years, and to show the rapid progress which has been made in the fulfilment of the remarkable language of our illustrious countryman, that the federal executive had an awful squinting towards monarchy. Here, in the county of his birth, surrounded by sons, some of whose sires with him were the first to raise their arms in defence of American liberty against a foreign monarch, is an appropriate place to expose the impending danger of creating a domestic monarch. And may I not, without presumption, indulge the hope that the warning voice of another, although far humbler, son of Hanover may not pass unheeded?

The late President of the United States advanced certain new and alarming pretensions for the executive department of the government, the effect of which, if established and recognised by the people, must inevitably convert it into a monarchy. The first of these, and it was a favorite principle with him, was, that the executive department should be regarded as a unit. By this principle of unity, he meant and intended that all the executive officers of government should be bound to obey the commands and execute the orders of the President of the United States, and that they should be amenable to him, and he be responsible for them. Prior to his administration, it had been considered that they were bound to observe and obey the constitution and laws, subject only to the general superintendence of the President, and responsible by impeachment, and to the tribunals of justice for injuries inflicted on private citizens.

But the annunciation of this new and extraordinary principle was not of itself sufficient for the purpose of President Jackson; it was essential that the subjection to his will, which was its object, should be secured by some adequate sanction. That he sought to effect by an extension of another principle, that of dismissal from office, beyond all precedent, and to cases and under circumstances which would have furnished just grounds for his impeachment, according to the solemn opinion of Mr. Madison and other members of the first Congress under the present constitution.

Now, if the whole official corps, subordinate to the President of the United States, are made to know and to feel that they hold their respective offices by the tenure of conformity and obedience to his will, it is manifest that they must look to that will, and not to the constitution and laws, as the guide of their official conduct. The weakness of human nature, the love and emoluments of office, perhaps the bread necessary to the support of their families, would make this result absolutely certain.

The development of this new character to the power of dismissal would have fallen short of the aims in view, without the exercise of it were held to be a prerogative, for which the President was to be wholly irresponsible. If he were compelled to expose the grounds and reasons upon which he acted, in dismissing from office, the apprehension of public censure would

temper the arbitrary nature of the power, and throw some protection around the subordinate officer. Hence the new and monstrous pretension has been advanced, that although the concurrence of the Senate is necessary by the constitution to the confirmation of an appointment, the President may subsequently dismiss the person appointed, not only without communicating the grounds on which he has acted, to the Senate, but without any such communication to the people themselves, for whose benefit all offices are created ! And so bold and daring has the executive branch of the government become, that one of its cabinet ministers, himself a subordinate officer, has contemptuously refused to members of the House of Representatives, to disclose the grounds on which he has undertaken to dismiss from office persons acting as deputy postmasters in his department !

As to the gratuitous assumption, by President Jackson, of responsibility for all the subordinate executive officers, it is the merest mockery that was ever put forth. They will escape punishment by pleading his orders, and he by alledging the hardship of being punished, not for his own acts, but for theirs. We have a practical exposition of this principle in the case of the two hundred thousand militia. The secretary of war comes out to screen the President, by testifying that he never saw what he strongly recommended ; and the President reciprocates that favor by retaining the secretary in place, notwithstanding he has proposed a plan for organizing the militia which is acknowledged to be unconstitutional. If the President is not to be held responsible for a cabinet minister, in daily intercourse with him, how is he to be rendered so for a receiver in Wisconsin or Iowa ? To concentrate all responsibility in the President, is to annihilate all responsibility. For who ever expects to see the day arrive when a President of the United States will be impeached ; or, if impeached, when he cannot command more than one-third of the Senate to defeat the impeachment ?

But to construct the scheme of practical despotism, whilst all the forms of free government remained, it was necessary to take one further step. By the constitution, the President is enjoined to take care that the laws be executed. This injunction was merely intended to impose on him the duty of a general superintendence ; to see that offices were filled, officers at their respective posts in the discharge of their official functions, and all obstructions to the enforcement of the laws were removed, and, when necessary for that purpose, to call out the militia. No one ever imagined prior to the administration of President Jackson, that a President of the United States was to occupy himself with supervising and attending to the execution of all the minute details of every one of the hosts of offices in the United States.

Under the constitutional injunction just mentioned, the late President put forward that most extraordinary pretension that the constitution and laws of the United States were to be executed as he understood them ; and this pretension was attempted to

be sustained by an argument equally extraordinary, that the President, being a sworn officer, must carry them into effect according to his sense of their meaning. The constitution and laws were to be executed not according to their import, as handed down to us by our ancestors, as interpreted by contemporaneous expositions, as expounded by concurrent judicial decisions, as fixed by an uninterrupted course of Congressional legislation, but in that sense which a President of the United States happened to understand them!

To complete this executive usurpation, one further object remained. By the constitution, the command of the army and the navy is conferred on the President. If he could unite the purse with the sword, nothing would be left to gratify the insatiable thirst for power. In 1838 the President seized the treasury of the United States, and from that day to this, it has continued substantially under his control. The seizure was effected by the removal of one secretary of the treasury, understood to be opposed to the measure, and by the dismissal of another, who refused to violate the law of the land upon the orders of the President.

It is, indeed, said that not a dollar in the treasury can be touched without a previous appropriation by law, nor drawn out of the treasury, without the concurrence and signature of the secretary, the treasurer, the register, and the comptroller. But are not all these pretended securities idle and unavailing forms? We have seen that, by the operation of the irresponsible power of dismissal, all those officers are reduced to mere automata, absolutely subjected to the will of the President. What resistance would any of them make, with the penalty of dismissal suspended over their heads, to any orders of the President, to pour out the treasure of the United States, whether an act of appropriation existed or not? Do not mock us with the vain assurance of the honor and probity of a President, nor remind us of the confidence which we ought to repose in his imagined virtues. The pervading principles of our system of governments—of all free government—is not merely the possibility, but the absolute certainty of infidelity and treachery, with even the highest functionary of the state; and hence all the restrictions, securities, and guaranties, which the wisdom of our ancestors, or the sad experience of history had inculcated, have been devised and thrown around the Chief Magistrate.

Here, friends and fellow citizens, let us pause and contemplate this stupendous structure of executive machinery and despotism, which has been reared in our young republic. The executive branch of the government is a unit; throughout all its arteries and veins there is to be but one heart, one head, one will. The number of the subordinate executive officers and dependents in the United States has been estimated, in an official report, founded on public documents, made by a senator from South

Carolina, (Mr. Calhoun,) at one hundred thousand. Whatever it may be, all of them, wherever they are situated, are bound implicitly to obey the orders of the President. An absolute obedience to his will is secured and enforced by the power of dismissing them, at his pleasure, from their respective places. To make this terrible power of dismissal more certain and efficacious, its exercise is covered up in mysterious secrecy, without exposure, without the smallest responsibility. The constitution and laws of the United States are to be executed in the sense in which the President understands them, although that sense may be at variance with the understanding of every other man in the United States. It follows, as a necessary consequence, from the principles deduced by the President from the constitutional injunction as to the execution of the laws, that, if an act of Congress be passed, in his opinion, contrary to the constitution, or if a decision be pronounced by the courts, in his opinion, contrary to the constitution or the laws, that act or that decision the President is not obliged to enforce, and he could not cause it to be enforced, without a violation, as is pretended, of his official oath. Candor requires the admission that the principle has not yet been pushed in practice in these cases; but it manifestly comprehends them; and who doubts that, if the spirit of usurpation is not arrested and rebuked, they will be finally reached? The march of power is ever onward. As times and seasons admonished, it openly and boldly in broad day, makes its progress; or, if alarm be excited by the enormity of its pretensions, it silently and secretly, in the dark of the night, steals its devious way. It now storms and mounts the ramparts of the fortress of liberty; it now saps and undermines its foundations. Finally, the command of the army and navy being already in the President, and having acquired a perfect control over the treasury of the United States, he has consummated that frightful union of purse and sword, so long, so much, so earnestly deprecated by all true lovers of civil liberty. And our present Chief Magistrate stands solemnly and voluntarily pledged, in the face of the whole world, to follow in the footsteps and carry out the measures and the principles of his illustrious predecessor!

The sum of the whole is, that there is but one power, one control, one will in the state. All is concentrated in the President. He directs, orders, commands the whole machinery of the state. Through the official agencies, scattered throughout the land, and absolutely subjected to his will, he executes, according to his pleasure or caprice, the whole power of the commonwealth, which has been absorbed and engrossed by him. And one sole will predominates in, and animates the whole of this vast community. If this be not practical despotism, I am incapable of conceiving or defining it. Names are nothing. The existence or non-existence of arbitrary government does not depend upon the title or denomination bestowed on the chief of the state, but upon the quantum of power which he possesses and



wields. Autocrat, sultan, emperor, dictator, king, doge, president, are all mere names, in which the power respectively possessed by them is not to be found, but is to be looked for in the constitution, or the established usages and practices of the several states which they govern and control. If the autocrat of Russia were called President of all the Russias, the actual power remaining unchanged, his authority, under his new denomination, would continue undiminished; and if the President of the United States were to receive the title of autocrat of the United States, the amount of his authority would not be increased, without an alteration of the constitution.

General Jackson was a bold and fearless reaper, carrying a wide row, but he did not gather the whole harvest; he left some gleanings to his faithful successor, and he seems resolved to sweep clean the field of power. The duty of inculcating on the official corps the active exertion of their personal and official influence was left by him to be enforced by Mr. Van Buren, in all popular elections. It was not sufficient that the official corps was bound implicitly to obey the will of the President. It was not sufficient that this obedience was coerced by the tremendous power of dismissal. It soon became apparent that this corps might be beneficially employed to promote, in other matters than the business of their offices, the views and interests of the President and his party. They are far more efficient than any standing army of equal numbers. A standing army would be separated, and stand out from the people, would be an object of jealousy and suspicion; and, being always in corps, or in detachments, could exert no influence on popular elections. But the official corps is dispersed throughout the country, in every town, village, and city, mixing with the people, attending their meetings and conventions, becoming chairmen and members of committees, and urging and stimulating partizans to active and vigorous exertion. Acting in concert, and throughout the whole Union, obeying orders issued from the centre, their influence, aided by executive patronage, by the post-office department, and all the vast other means of the executive, is almost irresistible.

To correct this procedure, and to restrain the subordinates of the executive from all interference with popular elections, my colleague, (Mr. Crittenden,) now present, introduced a bill in the Senate. He had the weight of Mr. Jefferson's opinion, who issued a circular to restrain federal officers from intermeddling in popular elections. He had before him the British example, according to which place men and pensioners were not only forbidden to interfere, but were not, some of them, even allowed to vote at popular elections. But his bill left them free to exercise the elective franchise, prohibiting only the use of their official influence. And how was this bill received in the Senate? Passed, by those who profess to admire the character and to pursue the principles of Mr. Jefferson? No such thing. It was denounced as a sedition bill. And the just odium of that sedition bill, which

was intended to protect office holders against the people, was successfully used to defeat a measure of protection of the people against the office holders! Not only were they left unrestrained, but they were urged and stimulated by an official report to employ their influence in behalf of the administration at the elections of the people.

Hitherto, the army and the navy have remained unaffected by the power of dismissal, and they have not been called into the political service of the executive. But no attentive observer of the principles and proceedings of the men in power could fail to see that the day was not distant when they, too, would be required to perform the partisan offices of the President. Accordingly, the process of converting them into executive instruments has commenced in a court martial assembled at Baltimore. Two officers of the army of the United States have been there put upon their solemn trial, on the charge of prejudicing the democratic party by making purchases for the supply of the army from members of the Whig party! It is not pretended that the United States were prejudiced by those purchases; on the contrary, it was I believe, established that they were cheaper than could have been made from the supporters of the administration. But the charge was, that to purchase at all from the opponents, instead of the friends, of the administration, was an injury to the democratic party, which required that the offenders should be put upon their trial before a court martial! And this trial was commenced at the instance of a committee of a democratic convention, and conducted and prosecuted by them! The scandalous spectacle is presented to an enlightened world of the Chief Magistrate of a great people executing the orders of a self-created power, organised within the bosom of the state, and upon such an accusation, arraigning, before a military tribunal, gallant men, who are charged with the defence of the honor and the interest of their country, and with bearing its eagles in the presence of an enemy!

But the army and navy are too small, and in composition are too patriotic to subserve all the purposes of this administration. Hence the recent proposition of the Secretary of War, strongly recommended by the President, under color of a new organization of the militia, to create a standing force of 200,000 men, an amount which no conceivable foreign exigency can ever make necessary. It is not my purpose now to enter upon an examination of that alarming and most dangerous plan of the executive department of the federal government. It has justly excited a burst of general indignation, and no where has the disapprobation of it been more emphatically expressed than in this ancient and venerable commonwealth.

The monstrous project may be described in a few words. It proposes to create the force by breaking down Mason and Dixon's line, expunging the boundaries of states; melting them up into a confluent mass, to be subsequently cut up into ten military parts, alienates the militia from its natural association, withdraws

it from the authority and command and sympathy of its constitutional officers, appointed by the states, puts it under the command of the President, authorises him to cause it to be trained, in palpable violation of the constitution, and subjects it to be called out from remote and distant places, at his pleasure, and on occasions not warranted by the constitution!

Indefensible as this project is, fellow citizens, do not be deceived by supposing that it has been or will be abandoned. It is a principle of those who are now in power that an election or a re-election of the President implies the sanction of the people to all the measures which he had proposed, and all the opinions which he had expressed, on public affairs, prior to that event.— We have seen this principle applied on various occasions. Let Mr. Van Buren be re-elected in November next, and it will be claimed that the people have thereby approved of this plan of the Secretary of War. All entertain the opinion that it is important to train the militia and render it effective; and it will be insisted, in the contingency mentioned, that the people have demonstrated that they approve of that specific plan. There is more reason to apprehend such a consequence from the fact that a committee of the Senate, to which this subject was referred, instead of denouncing the scheme as unconstitutional and dangerous to liberty, presented a labored apologetic report, and the administration majority in that body ordered twenty thousand copies of the apology to be printed for circulation among the people. I take pleasure in testifying that one administration Senator had the manly independence to denounce, in his place, the project as unconstitutional. That Senator was from your own state.

I have thus, fellow citizens, exhibited to you a true and faithful picture of executive power, as it has been enlarged and expanded within the last few years, and as it has been proposed further to extend it. It overshadows every other branch of the government. The source of legislative power is no longer to be found in the capital, but in the palace of the President. In assuming to be a part of the legislative power, as the President recently did, contrary to the constitution, he would have been nearer the actual fact if he had alledged that he was the sole legislative power of the Union. How is it possible for public liberty to be preserved, and the constitutional distributions of power, among the departments of government, to be maintained, unless the executive career be checked and restrained?

It may be urged that two securities exist; first, that the Presidential term is of short duration; and, secondly, the elective franchise. But it has been already shown that whether a depositary of power be arbitrary or compatible with liberty does not depend upon the duration of the official term, but upon the amount of power invested. The dictatorship in Rome was an office of brief existence, generally shorter than the Presidential term.—

Whether the elective franchise be an adequate security or not, is a problem to be solved next November. I hope and believe it yet is. But if Mr. Van Buren should be re-elected, the power already acquired by the executive be retained, and that which is in progress be added to that department, it is my deliberate judgment that there will be no hope remaining for the continuance of the liberties of the country.

And yet the partisans of this tremendous executive power arrogate to themselves the name of democrats, and bestow upon us, who are opposed to it, the denomination of federalists! In the Senate of the United States there are five gentlemen who were members of the federal party, and four of them have been suddenly transformed into democrats, and are now warm supporters of this administration, whilst I, who had exerted the utmost of my humble abilities to arouse the nation to a vindication of its insulted honor and its violated rights, and to the vigorous prosecution of the war against Great Britain, to which they were violently opposed, find myself, by a sort of magical influence, converted into a federalist! The only American citizen that I ever met with, who was an avowed monarchist, was a supporter of the administration of Gen. Jackson; and he acknowledged to me that his motive was to bring about the system of monarchy, which his judgment preferred.

There were other points of difference between the federalists and the democratic or rather republican party of 1798, but the great, leading, prominent discrimination between them related to the constitution of the executive department of the government. The federalists believed that in its structure, it was too weak, and was in danger of being crushed by the preponderating weight of the legislative branch. Hence they rallied around the executive, and sought to give to it strength and energy. A strong government, an energetic executive was, among them, the common language and the great object of that day. The republicans, on the contrary, believed that the real danger lay on the side of the executive; that, having a continuous and uninterrupted existence, it was always on the alert, ready to defend the power it had, and prompt in acquiring more; and that the experience of history demonstrated that it was the encroaching and usurping department. They, therefore, rallied around the people and the legislature.

What are the positions of the two great parties of the present day? Modern democracy has reduced the federal theory of a strong and energetic executive to practical operation. It has turned from the people, the natural ally of *genuine* democracy, to the executive, and, instead of vigilance, jealousy and distrust, has given to that department all its confidence, and made to it a virtual surrender of all the powers of government. The recognised maxim of royal infallibility is transplanted from the British monarchy into modern American democracy, and the President can do no wrong! This new school adopts, modifies, changes,

renounces, renews opinions at the pleasure of the executive. Is the bank of the United States a useful and valuable institution? Yes, unanimously pronounces the democratic legislature of Pennsylvania. The President vetoes it as a pernicious and dangerous establishment. The democratic majority in the same legislature pronounce it to be pernicious and dangerous. The democratic majority of the House of Representatives of the United States declare the deposits of the public money in the bank of the United States to be safe. The President says they are unsafe, and removes them. The democracy say they are unsafe, and approve the removal. The President says that a scheme of a Sub-Treasury is revolutionary and disorganizing. The democracy say it is revolutionary and disorganizing. The President says it is wise and salutary. The democracy say it is wise and salutary.

The whigs of 1840 stand where the republicans of 1798 stood, and where the whigs of the revolution were, battling for liberty, for the people, for free institutions, against power, against corruption, against executive encroachments, against monarchy.

We are reproached with struggling for offices and their emoluments. If we acted on the avowed and acknowledged principle of our opponents, "that the spoils belong to the victors," we should indeed be unworthy of the support of the people. No! fellow citizens; higher, nobler, more patriotic motives actuate the Whig party. Their object is the restoration of the constitution, the preservation of liberty, and rescue of the country. If they were governed by the sordid and selfish motives acted upon by their opponents, and unjustly imputed to them, to acquire office and emolument, they have only to change their names, and enter the Presidential palace. The gate is always wide open, and the path is no narrow one which leads through it. The last comer, too, often fares best.

On a resurvey of the few past years, we behold enough to sicken and sadden the hearts of true patriots. Executive encroachment has quickly followed upon executive encroachment; persons honored by public confidence, and from whom nothing but grateful and parental measures should have flowed, have inflicted stunning blow after blow in such rapid succession that, before the people could recover from the reeling effects of one, another has fallen heavily upon them. Had either of various instances of executive misrule stood out separate and alone, so that its enormity might have been seen and dwelt upon with composure, the condemnation of the executive would have long since been pronounced; but it has hitherto found safety and impunity in the bewildering effects of the multitude of its misdeeds. The nation has been in the condition of a man who, having gone to bed after his barn has been consumed by fire, is aroused in the morning to witness his dwelling house wrapt in flames. So bold and presumptuous had the executive become, that, penetrating in its influence the hall of a co-ordinate branch of the gov-

ernment, by means of a submissive or instructed majority of the Senate, it has caused a record of the country to be effaced and expunged, the inviolability of which was guarantied by a solemn injunction of the constitution ! And that memorable and scandalous scene was enacted only because the offensive record contained an expression of disapprobation of an executive proceeding.

If this state of things were to remain—if the progress of executive usurpation were to continue unchecked, hopeless despair would seize the public mind, or the people would be goaded to acts of open and violent resistance. But, thank God, the power of the President, fearful and rapid as its strides have been, is not yet too great for the power of the elective franchise ; and a bright and glorious prospect, in the election of William Henry Harrison, has opened upon the country. The necessity of a change of rulers has deeply penetrated the hearts of the people ; and we every where behold cheering manifestations of that happy event. The fact of his election alone, without reference to the measures of his administration, will powerfully contribute to the security and happiness of the people. It will bring assurance of the cessation of that long series of disastrous experiments which have so greatly afflicted the people. Confidence will immediately revive, credit be restored, active business will return, prices of products will rise ; and the people will feel and know that, instead of their servants being occupied in devising measures for their ruin and destruction, they will be assiduously employed in promoting their welfare and prosperity.

But grave and serious measures will, unquestionably, early and anxiously command the earnest attention of the new administration. I have no authority to announce, and do not pretend to announce the purposes of the new President. I have no knowledge of them other than that which is accessible to every citizen. In what I shall say as to the course of a new administration, therefore, I mean to express my own sentiments, to speak for myself, without compromising any other person. Upon such an interesting occasion as this is, in the midst of the companions of my youth, or their descendants, I have felt that it is due to them and to myself explicitly to declare my sentiments, without reserve, and to show that I have been, and, as I sincerely believe, the friends with whom I have acted have been, animated by the disinterested desire to advance the best interests of the country, and to preserve its free institutions.

The first, and in my opinion, the most important object which should engage the serious attention of a new administration, is that of circumscribing the executive power, and throwing around it such limitations and safe-guards as will render it no longer dangerous to the public liberties.

Whatever is the work of man necessarily partakes of his imperfections ; and it was not to be expected that, with all the acknowledged wisdom and virtues of the framers of our constitu-



tion, they could have sent forth a plan of government, so free from all defect, and so full of guaranties; that it should not, in the conflict of embittered parties and of excited passions, be perverted and misinterpreted. Misconceptions or erroneous constructions of the powers granted in the constitution would probably have occurred, after the lapse of many years, in seasons of entire calm, and with a regular and temperate administration of the government; but, during the last twelve years, the machine, driven by a reckless charioteer with frightful impetuosity, has been greatly jarred and jolted, and it needs careful examination, and a thorough repair.

With the view, therefore, to the fundamental character of the government itself, and especially of the executive branch, it seems to me that, either by amendments of the constitution, when they are necessary, or by remedial legislation, when the object falls within the scope of the powers of Congress, there should be,

1st. A provision to render a person ineligible to the office of President of the United States after a service of one term.

Much observation and deliberate reflection have satisfied me that too much of the time, the thoughts and the exertions of the incumbent, are occupied, during his first term, in securing his re-election. The public business, consequently suffers, and measures are proposed or executed with less regard to the general prosperity than to their influence upon the approaching election. If the limitation to one term existed, the President would be exclusively devoted to the discharge of his public duties; and he would endeavor to signalize his administration by the beneficence and wisdom of its measures.

2d. That the veto power should be more precisely defined, and be subjected to further limitations and qualifications. Although a large, perhaps the largest, proportion of all the acts of Congress, passed at the short session of Congress, since the commencement of the government, were passed within the three last days of the session, and when of course, the President for the time being had not the ten days for consideration allowed by the constitution, President Jackson, availing himself of that allowance, has failed to return important bills. When not returned by the President within the ten days, it is questionable whether they are laws or not. It is very certain that the next Congress cannot act upon them by deciding whether or not they shall become laws, the President's objections notwithstanding. All this ought to be provided for.

At present, a bill, returned by the President, can only become a law by the concurrence of two-thirds of the members of each house. I think if Congress passes a bill after discussion and consideration, and, after weighing the objections of the President, still believes it ought to pass, it should become a law, provided a majority of all the members of each house concur in its passage. If the weight of his argument, and the weight of his influence conjointly, cannot prevail on a majority, against their previous convictions, in my opinion the bill ought not to be arrested. Such is the provision of the constitutions of several of the states, and that of Kentucky among them.

3d. That the power of dismissal from office should be restricted, and the exercise of it be rendered responsible.

The constitutional concurrence of the Senate is necessary to the confirmation of all important appointments, but, without consulting the Senate, without any other motive than resentment or caprice, the President may dismiss, at his sole pleasure, an officer created by the joint action of himself and the Senate. The practical effect is to nullify the agency of the Senate. There may be, occasionally, cases in which the public interest requires an immediate dismissal without waiting for the assembling of the Senate; but, in all such cases, the President should be bound to communicate fully the grounds and motives of the dismissal. The power would be thus rendered responsible. Without it, the exercise of the power is utterly repugnant to free institutions, the basis of which is perfect responsibility, and dangerous to the public liberty, as has been already shown.

4th. That the control over the treasury of the United States should be confided and confined exclusively to Congress; and all authority of the President over it, by means of dismissing the secretary of the treasury, or other persons having the immediate charge of it, be rigorously precluded.

You have heard much, fellow citizens, of the divorce of banks and government. After crippling them and impairing their utility, the executive and its partisans have systematically denounced them. The executive and the country were warned again and again of the fatal course that has been pursued; but the executive nevertheless



persevered, commencing by praising and ending by decrying the state banks. Under cover of the smoke which has been raised, the real object all along has been, and yet is, to obtain the possession of the money power of the Union. That accomplished and sanctioned by the people—the union of the sword and the purse in the hands of the President effectually secured—and farewell to American liberty. The sub-treasury is the scheme for effecting that union; and I am told, that of all the days in the year, that which gave birth to our national existence and freedom, is the selected day to be disgraced by ushering into existence a measure, imminently perilous to the liberty which, on that anniversary, we commemorate in joyous festivals. Thus, in the spirit of destruction which animates our rulers, would they convert a day of gladness and of glory into a day of sadness and mourning. Fellow citizens, there is one divorce urgently demanded by the safety and the highest interests of the country—a divorce of the President from the treasury of the United States.

And 5th. That the appointment of members of Congress to any office, or any but a few specific offices, during their continuance in office, and for one year thereafter, be prohibited.

This is a hacknied theme, but it is not less deserving serious consideration. The constitution now interdicts the appointment of a member of Congress to any office created, or the emoluments of which had been increased whilst he was in office. In the purer days of the republic, that restriction might have been sufficient, but in these more degenerate times, it is necessary, by an amendment of the constitution, to give the principle a greater extent.

These are the subjects, in relation to the permanent character of the government itself, which, it seems to me, are worthy of the serious attention of the people, and of a new administration. There are others, of an administrative nature, which require prompt and careful consideration.

1st. The currency of the country, its stability and uniform value, and, as intimately and indissolubly connected with it, the insurance of the faithful performance of the fiscal services necessary to the government, should be maintained and secured by exercising all the powers requisite to those objects with which Congress is constitutionally invested. These are the great ends to be aimed at—the means are of subordinate importance. Whether these ends, indispensable to the well-being of both the people and the government, are to be attained by sound and safe state banks, carefully selected, and properly distributed, or by a new bank of the United States, with such limitations, conditions, and restrictions, as have been indicated by experience, should be left to the arbitrament of enlightened public opinion.

Candor and truth require me to say that, in my judgment, whilst banks continue to exist in the country, the services of a bank of the United States cannot be safely dispensed with. I think that the power to establish such a bank is a settled question; settled by Washington and by Madison, by the people, by forty years' acquiescence, by the judiciary, and by both of the great parties which so long held sway in this country. I know and I respect the contrary opinion, which is entertained in this state. But, in my deliberate view of the matter, the power to establish such a bank being settled, and being a necessary and proper power, the only question is as to the expediency of its exercise. And on questions of mere expediency public opinion ought to have a controlling influence. Without banks, I believe we cannot have a sufficient currency; without a bank of the United States, I fear we cannot have a sound currency. But it is the end, that of a sound and sufficient currency, and a faithful execution of the fiscal duties of government, that should engage the dispassionate and candid consideration of the whole community. There is nothing in the name of the bank of the United States which has any magical charm, or to which any one need be wedded. It is to secure certain great objects, without which society cannot prosper; and if, contrary to my apprehension, these objects can be accomplished by dispensing with the agency of a bank of the United States, and employing that of state banks, all ought to rejoice, and heartily acquiesce, and none would more than I should.

2d. That the public lands, in conformity with the trusts created expressly, or by just implication, on their acquisition, be administered in a spirit of liberality towards the new states and territories, and in a spirit of justice towards all the states.

The land bill which was rejected by President Jackson, and acts of occasional legislation, will accomplish both these objects. I regret that the time does not admit of my exposing here the nefarious plans and purposes of the administration as to this vast national resource. That, like every other great interest of the country, is administered with the sole view of the effect upon the interests of the party in power. A bill has passed the Senate, and is now pending before the House, according to which forty millions of dollars are stricken from the real value of a certain portion of the public lands by a short process; and a citizen of Virginia, residing on the south-west side of the Ohio, is not allowed to purchase lands as cheap, by half a dollar per acre, as a citizen living on the northwest side of that river. I have no hesitation in

expressing my conviction that the whole public domain is gone if Mr. Van Buren be re-elected.

3d. That the policy of protecting and encouraging the productions of American industry, entering into competition with the rival productions of foreign industry, be adhered to and maintained on the basis of the principles and in the spirit of the compromise of March, 1833.

Protection and national independence are, in my opinion, identical and synonymous. The principle of abandonment of the one cannot be surrendered without a forfeiture of the other. Who, with just pride and national sensibility, can think of subjecting the products of our industry to all the taxation and restraints of foreign powers, without effort, on our part, to counteract their prohibitions and burdens by suitable countervailing legislation? The question cannot be, ought not to be, one of principle, but of measure and degree. I adopt that of the compromise act, not because that act is irrevocable, but because it met with the sanction of the nation. Stability, with moderate and certain protection, is far more important than instability, the necessary consequence of high protection. But the protection of the compromise act will be adequate, in most, if not as to all interests. The twenty per cent. which it stipulates, cash duties, home valuations, and the list of free articles inserted in the act, for the particular advantage of the manufacturer, will ensure, I trust, sufficient protection. All together, they will amount probably to no less than thirty per cent., a greater extent of protection than was secured prior to the act of 1828, which no one stands up to defend. Now the valuation of foreign goods is made not by the American authority, except in suspected cases, but by foreigners, and abroad. They assess the value, and we the duty; but as the duty depends, in most cases, upon the value, it is manifest that those, who assess the value, fix the duty. The home valuation will give our government what it rightfully possesses, both the power to ascertain the true value of the thing which it taxes, as well as the amount of that tax.

4th. That a strict and wise economy, in the disbursement of the public money, be steadily enforced; and that, to that end, all useless establishments, all unnecessary offices and places, foreign and domestic, and all extravagance, either in the collection or expenditure of the public revenue, be abolished and repressed.

I have not time to dwell on details in the application of this principle. I will say that a pruning knife, long, broad, and sharp, should be applied to every department of the government. There is abundant scope for honest and skilful surgery. The annual expenditure may, in reasonable time, be brought down from its present amount of about forty millions to near one-third of that sum.

5th. The several states have made such great and gratifying progress in their respective systems of internal improvement, and have been so aided by the distribution under the deposit act, that, in future, the erection of new roads and canals should be left to them with such further aid only from the general government as they would derive from the payment of the last instalment under that act, from an absolute relinquishment of the right of Congress to call upon them to refund the previous instalments, and from their equal and just quotas, to be received by a future distribution of the nett proceeds from the sales of the public lands.

And 6th. That the right to slave property, being guarantied by the constitution, and recognized as one of the compromise incorporated in that instrument by our ancestors, should be left where the constitution has placed it, undisturbed and unagitated by Congress.

These, fellow citizens, are views both of the structure of the government and of its administration, which appear to me worthy of commanding the grave attention of the public and its new servants. Although, I repeat, I have neither authority nor purpose to commit any body else, I believe most, if not all of them, are entertained by the political friends with whom I have acted. Whether the salutary reforms which they include will be effected or considered depends upon the issue of that great struggle which is now going on throughout all this country. This contest has had no parallel since the period of the revolution. In both instances there is a similarity of object. That was to achieve, this is to preserve the liberties of the country. Let us catch the spirit which animated, and imitate the virtues which adorned our noble ancestors. Their devotion, their constancy, their untiring activity, their perseverance, their indomitable resolution, their sacrifices, their valor! If they fought for liberty or death, in the memorable language of one of the most illustrious of them, let us never forget that the prize now at hazard is liberty or slavery. We should be encouraged by the fact that the contest to the success of which they solemnly pledged their fortunes, their lives, and their sacred honor, was far more unequal than that in which we are engaged. But, on the other hand, let us cautiously guard against too much confidence. History and experience prove that more has been lost by self confidence and contempt of enemies, than won by skill and courage. Our opponents are powerful in numbers and in organization, active, insidious, possessed of ample means, and wholly unscrupulous in the use of them. They count upon success by the use of two words, democracy and federalism—democracy which, in violation of

all truth, they appropriate to themselves, and federalism which, in violation of all justice, they apply to us. And allow me to conjure you not to suffer yourselves to be diverted, deceived, or discouraged by the false rumors which will be industriously circulated, between the present time and the period of the election, by our opponents. They will put them forth in every variety, and without number, in the most imposing forms, certified and sworn to by conspicuous names. They will brag, they will boast, they will threaten. Regardless of all their arts, let us keep steadily and faithfully and fearlessly at work.

But if the opposition perform its whole duty, if every member of it act as in the celebrated battle of Lord Nelson, if the eyes of the whole nation were fixed on him, and as if on his sole exertions depended the issue of the day, I sincerely believe that at least twenty of the states of the Union will unite in the glorious work of the salvation of the constitution and the redemption of the country.

Friends and fellow citizens, I have detained you too long. Accept my cordial thanks and my profound acknowledgments for the honors of this day, and for all your feelings of attachment and confidence towards me; and allow me in conclusion, to propose a sentiment:

Hanover county: it was the first, in the commencement of the revolution, to raise its arms, under the lead of Patrick Henry, in defence of American liberty; it will be the last to prove false or recreant to the holy cause.

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taken from the Building**

| DATE     | DESCRIPTION | AMOUNT | CHECK NO. | BANK  |
|----------|-------------|--------|-----------|-------|
| 10/1/20  | DEPOSIT     | 100.00 |           | CHASE |
| 10/2/20  | PAYROLL     | 50.00  | 1001      | CHASE |
| 10/3/20  | RENT        | 200.00 | 1002      | CHASE |
| 10/4/20  | UTILITIES   | 25.00  | 1003      | CHASE |
| 10/5/20  | SALES       | 150.00 | 1004      | CHASE |
| 10/6/20  | DEPOSIT     | 100.00 |           | CHASE |
| 10/7/20  | PAYROLL     | 50.00  | 1005      | CHASE |
| 10/8/20  | RENT        | 200.00 | 1006      | CHASE |
| 10/9/20  | UTILITIES   | 25.00  | 1007      | CHASE |
| 10/10/20 | SALES       | 150.00 | 1008      | CHASE |
| 10/11/20 | DEPOSIT     | 100.00 |           | CHASE |
| 10/12/20 | PAYROLL     | 50.00  | 1009      | CHASE |
| 10/13/20 | RENT        | 200.00 | 1010      | CHASE |
| 10/14/20 | UTILITIES   | 25.00  | 1011      | CHASE |
| 10/15/20 | SALES       | 150.00 | 1012      | CHASE |
| 10/16/20 | DEPOSIT     | 100.00 |           | CHASE |
| 10/17/20 | PAYROLL     | 50.00  | 1013      | CHASE |
| 10/18/20 | RENT        | 200.00 | 1014      | CHASE |
| 10/19/20 | UTILITIES   | 25.00  | 1015      | CHASE |
| 10/20/20 | SALES       | 150.00 | 1016      | CHASE |
| 10/21/20 | DEPOSIT     | 100.00 |           | CHASE |
| 10/22/20 | PAYROLL     | 50.00  | 1017      | CHASE |
| 10/23/20 | RENT        | 200.00 | 1018      | CHASE |
| 10/24/20 | UTILITIES   | 25.00  | 1019      | CHASE |
| 10/25/20 | SALES       | 150.00 | 1020      | CHASE |
| 10/26/20 | DEPOSIT     | 100.00 |           | CHASE |
| 10/27/20 | PAYROLL     | 50.00  | 1021      | CHASE |
| 10/28/20 | RENT        | 200.00 | 1022      | CHASE |
| 10/29/20 | UTILITIES   | 25.00  | 1023      | CHASE |
| 10/30/20 | SALES       | 150.00 | 1024      | CHASE |
| 10/31/20 | DEPOSIT     | 100.00 |           | CHASE |





